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THE SOCIETIES REGISTRATION ACT

BEING

ACT XXI OF 1860

EXPLANATORY NOTES AND COMMENTARIES ON THE ACT AS AMENDED UP-TO-DATE WITH ALL STATE AMENDMENTS AND SEVERAL USEFUL APPENDICES

By

SUNIT BAL KHER, B.A., LL.B.

OF LINCOLN'S INN, BARRISTER-AT-LAW
ADVOCATE, SUPREME COURT OF INDIA

With a Foreword by

SIR JAMSHEDJI B. KANGA, Kt., M.A., LL.B.
JUDGE OF THE HIGH COURT OF BOMBAY (1921–22)
ADVOCATE-GENERAL OF BOMBAY (1922–35)

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To my
Father and Mother

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FOREWORD

Mr. Kher's book on the Societies Registration Act is a meritorious venture in a barely trodden field. The law on the subject, now almost a century old, has been carefully covered within a moderate compass so as to leave out little that is useful and include nothing that deserves exclusion. The provisions of the Central Act, with all its various amendments in its application to different States, have been analysed and discussed. The youthful author has done his work with a degree of thoroughness which renders it unnecessary to seek light on the subject elsewhere. The references to case law are numerous enough to be of help to the practitioners without unduly encumbering the commentary. References to the corresponding provisions of the English Law on the subject and the various Appendices should prove helpful to all readers.

HIGH COURT, J. B. KANGA
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INTRODUCTION

The Societies Registration Act is a very useful Act. It has helped many an institution in this country to be built up. The object of the Act is to make provision for improving the legal condition of societies established for the promotion of literature, science, fine arts, diffusion of useful knowledge, diffusion of political education, or for charitable purposes. The Act deals with the nature, constitution, property, internal regulation, dissolution and legal proceedings by or against such societies. A society upon its registration under the Act ceases to be a mere collection or aggregation of individual units, and becomes, in contemplation of law, a person distinct from the members constituting it. The advantages accruing to such a society from registration are many. The society gains in stability, public estimation and credit. It becomes 'a species of quasi-corporation' with perpetual succession. It can hold property, it can contract and take and defend legal proceedings, its affairs can be conducted much more efficiently and its officers and members are freed from personal liability. The Act thus deliberately sets up a legal fiction, but that legal fiction performs many useful functions. If one looks at the history of modern India commencing with the advent of British rule in this country and follows the course of events which culminated in the attainment of independence, one will have to admit that institutions, and more particularly educational institutions have played a vital and decisive role in the creation of the Indian Republic. Most of the institutions were able to make this valuable contribution because of the wide benefits conferred by the Act.

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The Societies Registration Act is based on the English Statute known as the Literary and Scientific Institutions Act. The Act was enacted as early as 1860, and it says a great deal for the drafting of those days that for a long time it endured without requiring any major amendment. The Act was amended for the first time in 1927. The circumstances which led to its amendment are not without interest to the student of legal history. In the year 1905, the late Gopal Krishna Gokhale founded that well-known institution, the Servants of India Society. The objects of the society were the training of national missionaries for the service of India and the promotion, by all constitutional means, of the interests of the Indian people without distinction of caste or creed. It did social and educational work and had founded a school of political thought. This institution failed to secure registration under the Act, not in one but in two provinces. The Registrar of Companies in both the provinces refused registration to the society on the ground that it was of a political character and was thus outside the scope of the Act. Now, there was no reason why the benefit of registration, and the legal status for all practical purposes conferred by such registration, should be denied to a society like the Servants of India Society, inasmuch as the work and purpose of political education was certainly as useful and altruistic as any other mentioned in the Act. In order therefore to provide for the registration of such societies the Act was amended in 1927 when " diffusion of political education " was included among the purposes in respect of which a society could claim registration under the Act.

The Societies Registration Act is a Central Act. Since 1937, under the provisions of the Government of India Act, 1935, literary, scientific and charitable societies became a provincial subject. In the Constitution of India also these societies are a subject-matter for provincial legislation by virtue of their inclusion in the State Legislative List. A number of States have

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exercised their legislative powers in this domain and passed amending Acts making several additions and alterations to the Central Act.

In this book the object, principle and meaning of the provisions of the Act are carefully explained and elucidated in the light of Indian and English decisions on the subject. The facts of important decisions have been given to illustrate the meaning of the provisions. The amendments, additions and alterations to the Act made by several States up to 1st October 1954 have been set out in the text of the Act at appropriate places. The book also contains several useful appendices. I hope this book will prove useful to lawyers and to laymen concerned with the administration of societies registered under the Act.

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CORRIGENDA

Page 12.—Footnote (16), for " 78 L.T. 88 " read " 78 L.T. 588."

Page 16.—Footnote (21), for " Purshottam Das *v.* Bai Dahi " read " Purshottamdas *v.* Bai Dahi "

Page 17.—Line 32, for " Purshottam Das *v.* Bai Dahi " read " Purshottamdas *v.* Bai Dahi "

Page 21.—Footnote (2), for " British Equitable Assurance Co. *v.* Bailey " read British Equitable Assurance Co. *v.* Baily.

Page 33.—Footnote (24), Mozley *v.* Alston, for " (1871) 1 Ph. 790 " read " (1847) 1 Ph. 790 "

Page 58.—Line 12, Heading " Delivered in person, or by proxy," After the words " There is no common law " add the word " right "

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LIST OF ABBREVIATIONS

A.C.	Law Reports, Appeal Cases, House of Lords.
A.I.R. All.	All India Reporter, Allahabad.
A.I.R. Bom.	All India Reporter, Bombay.
A.I.R. Cal.	All India Reporter, Calcutta.
A.I.R. E.P.	All India Reporter, East Punjab.
A.I.R. Mad.	All India Reporter, Madras.
A.I.R. Nag.	All India Reporter, Nagpur.
A.I.R. Oudh	All India Reporter, Oudh.
A.I.R. P.C.	All India Reporter, Privy Council.
All. E.R.	All England Reports.
A.L.J.	Allahabad Law Journal.
A.W.R.	Allahabad Weekly Reporter.
A.M.L.J.	Ajmer-Merwara Law Journal.
App.Cas.	Law Reports, Appeal Cases, House of Lords.
Bom. L.R.	Bombay Law Reporter.
C.L.J.	Calcutta Law Journal.
Comp. C.	Company Cases.
C. & P.	Carrington and Payne's Reports.
Ch.	Law Reports, Chancery Division.
Ch.D.	Law Reports, Chancery Division.
E.R.	English Reports.
H.L.C.	Clark's Reports, House of Lords.
Hare	Hare's Reports.
Holt, Eq.	W. Holt's Equity Reports.
I.A.	Indian Appeals.
I.C.	Indian Cases.
I.L.R. All.	Indian Law Reports, Allahabad Series.
I.L.R. Bom.	Indian Law Reports, Bombay Series.
I.L.R. Cal.	Indian Law Reports, Calcutta Series.
I.L.R. Lah.	Indian Law Reports, Lahore Series.
I.L.R. Mad.	Indian Law Reports, Madras Series.
I.T.R.	Income Tax Reports.
J.P.	Justice of the Peace.
Jur.	Jurist Reports.
K.B.	Law Reports, King's Bench Division.
Keen.	Keen's Reports.
L. Jo.	Law Journal.
L.J.Ch.	Law Journal, Chancery.

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L.J. Exch.	Law Journal, Exchequer.
L.J.K.B. or Q.B.	Law Journal, King's Bench, or Queen's Bench.
L.J. M.C.	Law Journal, Magistrates' Cases.
L.J.P.C.	Law Journal, Privy Council.
L.R.	Law Reports.
L.R. H.L.	Law Reports, English and Irish Appeals and Peerage Claims, House of Lords.
Law Rep. Ch.	Law Reports, Chancery.
L.T.	Law Times Reports.
L.T. Jo.	Law Times Newspaper.
L.T. O.S.	Law Times Reports, Old Series.
Meg.	Megone's Companies Acts Cases.
M.L.J.	Madras Law Journal.
M.L.W.	Madras Law Weekly.
M.W.N.	Madras Weekly Notes.
N.L.R.	Nagpur Law Reports.
O.C.	Oudh Cases.
Ph.	Phillips' Reports.
Q.B.	Law Reports, Queen's Bench Division.
R.P.C.	Reports of Patent Cases.
Sol.Jo.	Solicitors' Journal.
T.L.R.	The Times Law Reports.
W.N.	Weekly Notes.
W.R.	Weekly Reporter.

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THE SOCIETIES REGISTRATION ACT

ACT XXI OF 1860

ACT HOW AFFECTED BY SUBSEQUENT LEGISLATION

—Repealed in Part by Act XVI of 1874

—Short title given by Act XIV of 1897

—Amended by Act VII of 1913

—Amended by Act XXII of 1927

—Adapted by the Government of India (Adaptation of Indian Laws) Order 1937 read with Adaptation of Laws Order, 1950 (in India)

—Adapted by Adaptation of existing Indian/Pakistan Laws Order 1947 read with Adaptation of Laws Order, 1950 (in India)

—Amended in its application to :

(A) Bombay by (1) Bombay Act II of 1912

(2) Bombay Act LIII of 1948

Bombay Act II of 1912 extended to the State of Ajmer, See Gazette of India 18-11-1950 Part II, Sec. 3, p. 977

Bombay Act II of 1912 extended to the Province of Delhi, See Gazette of India 4-2-1950 Part I, p. 166

(B) Bihar by (1) Bihar Act XXX of 1948

(2) Bihar Act IV of 1951

(C) West Bengal by West Bengal Act XVI of 1950

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(D) East Punjab by (1) East Punjab Act XXXII of 1948
(2) East Punjab Act VI of 1949

(E) Assam by (1) Assam Act XIV of 1948
(2) Assam Act XV of 1948
(3) Assam Act XI of 1952

(F) Madhya Pradesh by C.P. and Berar Act III of 1940

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THE SOCIETIES REGISTRATION ACT

Act XXI of 1860

(21ST MAY 1860)

An Act for the Registration of Literary, Scientific and Charitable Societies

Preamble

WHEREAS it is expedient that provision should be made for improving the legal condition of societies established for the promotion of literature, science or the fine arts or for the diffusion of useful knowledge, [the diffusion of political education] or for charitable purposes; It is enacted as follows:

Amendment.—The words within square brackets were added by the Societies Registration (Amendment) Act, 1927 (XXII of 1927).

Title. The title forms part of the Act and may be considered in determining the scope of the Act provided that nothing contained in it may be taken to contradict clear and unambiguous language in the Act itself. This however, does not apply to a short title, which is merely for facility of reference.(1) The short title to the Act was given by the Indian Short Titles Act, 1897 (XIV of 1897). In all deeds, documents, proceedings, suits and prosecutions, this Act may be cited and described by the name of the Societies Registration Act, 1860.

Preamble. The Preamble of the Act gives the reasons why the passing of the Act has become desirable. It is " a key to

(1) Halsbury's Laws of England 2nd Ed. Vol. 31 p. 460.

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open the meaning of the makers of the Act, and the mischiefs it was intended to remedy." The preamble may now be regarded, like the title, as part of the Statute, for the purpose of explaining, restraining or even extending enacting words, but not for the purpose of qualifying or limiting express provisions couched in clear and unambiguous terms.(2) In *Powell* v. *Kempton Park Racecourse Co.*(3) Lord Halsbury said : " Two propositions are quite clear, one that a preamble may afford useful light as to what a Statute intends to reach and the other, that if an enactment is itself clear and unambiguous, no preamble can qualify or cut down the enactment." This rule has been applied to Indian Statutes also by the Privy Council(4) and by the Courts in India.(5)

The title of the Act provides for the registration of literary, scientific and charitable societies. The preamble adds further the fine arts, the diffusion of useful knowledge and the diffusion of political education. The preamble itself is further amplified in Section 20 which enumerates the different types of societies which can be registered under the Act. Therefore in order to determine the scope of the Act, one must read the title, the preamble and S. 20. The preamble read with the title and S. 20 of the Act shows that the object of the Act is to make provision for improving the legal condition of societies established for the promotion of (1) literature, (2) science, (3) fine arts, (4) diffusion of useful knowledge, (5) diffusion of political education, (6) charitable purposes, (7) any such purpose as is described in S. 20. The Act deals with the nature, constitution, property, internal regulation, dissolution and legal proceedings by or against such societies.

Rules of Interpretation of Statutes. (1) The proper course, in the interpretation of Statutes is, " to examine the

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(2) Halsbury's Laws of England 2nd Ed. Vol. 31 pp. 461, 462.

(3) (1899) A.C. 143, 157.

(4) *Secretary of State* v. *Maharaja of Bobbili* (1920) 43 Mad. 429, 46 I.A. 302, 54 I.C. 154. *Secretary of State* v. *Sannidhiraju Subbarayudu and others* 55 Mad. 268, 59 I.A. 56.

(5) *Mani Lall Singh* v. *Trustees for the improvement of Calcutta* (1918) 45 Cal. 433, 44 I.C. 770 ; *Girja Nandan* v. *Hanuman Das* (1927) 49 All. 25, 99 I.C. 161 ; *Shidvirappa Gurusatappa* v. *Shivlingappa* 53 Bom. L.R. 539 (F.B.), A.I.R. 1951 Bom. 137.

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language of the Statute, and to ask, what is its natural meaning uninfluenced by any considerations derived from the previous state of the law, and not to start with inquiring how the law previously stood, and then assuming that it was probably intended to leave it unaltered, to see if the words of the enactment will bear an interpretation in conformity with this view."(6)

(2) Where an Act of Parliament has received a judicial construction putting a certain meaning on its words and the Legislature in a subsequent Act *in pari materia* uses the same words, there is a presumption that the Legislature uses these words intending to express the meaning which it knew has been put upon the same words before; and unless there is something to rebut that presumption, the Act should be so construed even if the words were such that they might originally have been construed otherwise.(7)

(3) In considering the construction of a section in an Indian Act, which is professedly based on an English enactment and which it reproduces, almost word for word the language of the English enactment, and which relates to a branch of the law which is entirely English law, the Courts of India are in practice, if not in theory, bound by the decisions of the English Court of Appeal.(8)

(4) In the interpretation of an All-India Statute, as far as possible, considered opinion of another High Court should be followed unless the Court cannot conscientiously accept that view.(9)

Act based on English Statute. The Act with the exception of the first four sections is based on the Literary and Scientific Institutions Act, 1854 (17 and 18 Vict.C.112) Ss. 20 to 33. For the English Act, See Appendix VIII.

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(6) *Bank of England* v. *Vagliano* (1891) A.C. 107, 144.

(7) Mersey Dock Case 11 H.L.C. 443 at p. 480.

(8) *Bhagwanti* v. *New Bank of India* (F.B.) A.I.R. 1950 E.P. 111, 20 Comp. C. 68.

(9) *In re* Sarupchand Hukamchand 47 Bom. L.R. 159, A.I.R. 1945 Bom. 258, 1945-(13) I.T.R. 245.

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Local Extent. The Act has been declared to be in force in the whole of India except Part B States and the Scheduled Districts, by S. 3 of the Laws Local Extent Act, 1874 (XV of 1874) as amended by the Adaptation of Laws Order, 1950. The Act is also in force in all the Provinces of Pakistan. See the India/Pakistan (Adaptation of Existing Indian/Pakistan Laws) Order, 1947.

It has been declared to be in force in British Baluchistan by S. 3 of the Baluchistan Laws Regulation 2 of 1913.

It has been declared, by Notification under S. 3(*a*) of the Scheduled Districts Act (XIV of 1874) to be in force in the following Scheduled Districts, namely :—

West Jalpaiguri—See Gazette of India, 1881, Pt. 1, p. 74. The Districts of Haribagh, Lohardaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. 1, p. 44), and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singhbum, see Gazette of India, 1881, Pt. 1, p. 504, The Scheduled portion of the Mirzapur District, see Gazette of India, 1879, Pt. 1, p. 383. Jaunsar Bawar, see Gazette of India, 1879, Pt. 1, p. 302, The Districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan, and Dera Ghazi Khan. [Portions of the Districts of Hazara, Bannu, Dera Ismail Khan and Dera Ghazi Khan and the Districts of Peshawar and Kohat now form the North-West-Frontier Province, see Gazette of India, 1901, Pt. 1, p. 857, and *ibid*, 1902, Pt. 1, p. 575; but its application has been barred to that portion of the Hazara District known as Upper Tanawal, by the Hazara (Upper Tanawal), Regulation 2 of 1900, see Gazette of India, 1886, Pt. 1, p. 48.]

The Scheduled Districts in Ganjam and Vizagaptam, see Gazette of India, 1898, Pt. 1, p. 870. The District of Sylhet, see Gazette of India, Pt. 1, p. 631. The rest of Assam (except the North Lushai Hills), see Gazette of India, 1897, Pt. 1, p. 299.

It has been extended by notification under S. 5 of the last mentioned Act, to the following Scheduled Districts namely :—

Sindh, see Gazette of India, 1880, Pt. 1, p. 672, Kumaon and Garhwal, *ibid*, 1876, Pt. 1, p. 606, Ajmer and Merwara, *ibid*, 1878, Pt. 1, p. 380.

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It has been declared by notification under S. 3(*b*) of the same Act, not to be in force in the Scheduled District of Lahaul, see Gazette of India, 1886, Pt. 1, p. 301.

It has been made applicable to Chota Nagpur Division and to Santal Parganas, see Bihar Gazette 1948, Pt. II, p. 2080. It has been made applicable to Santal Paraganas District excluding Godda and Deoghar Sub-Divisions by Bihar Regulation I of 1951, see Bihar Gazette 2-5-1951, Pt. IV, p. 22. It has been made applicable to Godda and Deoghar Sub-Divisions of the Santal Parganas District by Bihar Act 24 of 1951, see Bihar Gazette 25-7-1951, Pt. IV, p. 72.

With effect from 1st August 1949 a large number of Acceding States have either been finally merged in the adjoining Governors' Provinces or Constituted into new Chief Commissioners' Provinces (now they have been constituted into Part C States) by orders under Section 290A of the Government of India Act, 1935. Taking into consideration the large number of inland territories which stood merged in the Governors' Provinces from 1st August, 1949, the Government of India enacted the Merged States (Laws) Act, 1949 (LIX of 1949) which provides for the *proprio vigore* extension of the more important central acts and ordinances to all the merged States including those which have been constituted into Chief Commissioners' Provinces (now Part C States). The Central Acts and Ordinances sought to be extended have been specified in the Schedule contained in the Act. The Societies Registration Act, 1860 is included in the Schedule to the Act and is thus extended *proprio vigore* to all the merged States including those which have been constituted into Part C States. In so far as the Governors' Provinces are concerned, the *proprio vigore* extension to the merged States of the Societies Registration Act and other Acts specified in the Schedule would not be fully effected by the Central Act and corresponding supplementary legislation by the Provinces was considered necessary. As it was obviously desirable that the Central Act and the Provincial legislation should come into force on the same day, a commencement clause stating that the Act shall come into force on the 1st January 1950 was included in the Act and the Provincial Governments were requested to bring their corresponding legislation into

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force on the same day. Several Provincial Governments have accordingly enacted the corresponding supplementary Acts providing for the *proprio vigore* extension of the State Acts and Central Acts to the merged States in the respective Provinces. See Bombay Merged States (Laws) Act, 1950 (Bombay Act IV of 1950); Madhya Pradesh Merged States Laws (State) Act, 1950 (Madhya Pradesh Act XII of 1950); Orissa Merged States Laws (Amendment) Act, 1950 (Orissa Act XVI of 1950); Punjab Merged States (Laws) Act, 1950 (Punjab Act V of 1950); Uttar Pradesh Merged States (Application of Laws) Act, 1950 (Uttar Pradesh Act VIII of 1950); and West Bengal State Laws (Extension of Cooch Behar) Act, 1950 (West Bengal Act XXX of 1950).

Societies. The word " society " in the Act corresponds to the word " Institution " in the English Act. In *Manchester Corporation* v. *McAdam*(10) Lord Herschell observed that " the essential idea conveyed by the word " Institution " in connection with such adjectives as ' literary ' and ' scientific ' is often no more than a system, scheme or arrangement, by which literature or science is promoted without reference to the persons with whom the management may rest, or in whom the property appropriated for these purposes may be vested, save in so far as these may be regarded as a part of such system, scheme or arrangement."

Science. The word ' Science ' embraces a wide but perfectly ascertainable range of subjects. The generality of the word has never prevented the Court from applying to the particular case before it the provisions of the Act under its consideration.(11) The word 'Science' is not confined to pure or speculative science or science generally, but includes various branches of science such as mechanical or engineering science.(12) A Society instituted for the cultivation and promotion of medicine and surgery, and the branches of science connected therewith, would be a society for the promotion of science.(13)

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(10) 1896 A.C. 500 at p. 507.

(11) *Weir* v. *Crum-Brown* (1908) A.C. 162 at pp. 168, 169.

(12) *Commissioners of Inland Revenue* v. *Forrest* (1890) 15 App. Cas. p. 334, 63 L.T. 36, 6 T.L.R. 456, 60 L.J.Q.B. 281, 39 W.R. 33.

(13) *R.* v. *Royal Medical and Chirurgical Society of London* (1857) 30 L.T.O. S. 133.

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Fine Arts. ' Fine Arts ' mean arts which are concerned with " the beautiful " or which appeal to the faculty of taste.(14) Webster's Dictionary defines Fine Art as art which is concerned with the creation of objects of imagination and taste for their own sake and without relation to the utility of the object produced.(15)

" Fine Arts " include, painting, drawing, architecture, and sculpture, (these four being often called the Arts of Design), poetry, music, dancing and dramatic art. Sometimes the term " Fine Arts " is restricted to the first four arts of design.(16) Music is one of the fine arts and a society for the promotion of music would come within the purview of the Act.(17)

Charitable purposes. The term " charity " is probably incapable of definition. The popular meanings of the words " charity ", " charitable " and " charitable purposes " do not coincide with their legal or technical meanings. To decide whether a purpose is charitable or not in law, it is the practice of the Courts to refer to the preamble to the Statute of Elizabeth(18) which contains a comprehensive and varied list of charities. The objects there enumerated and all others " which by analogies are deemed within its spirit and intendment " are charitable in the legal sense. Those named in the preamble which has received a very wide construction are to be regarded as instances, and not as the only objects of charity.(19)

The objects enumerated in the preamble to the Statute of Elizabeth(20) are as follows :—

The relief of aged, impotent and poor people ; the maintenance of sick and maimed soldiers and mariners ; the maintenance of

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(14) Murray's New English Dictionary, Oxford (1901) p. 229.

(15) Webster's New International Dictionary 2nd Ed. p. 949.

(16) *Ibid* p. 949.

(17) *Royal College of Music* v. *Westminster Vestry* (1898) 1 Q.B. 809, at p. 817.

(18) Stat. 43 Eliz. C 4, repealed by the Mortmain and Charitable Uses Act, 1888, except as regards the preamble, which is expressly preserved by S. 13(2) of the latter Act.

(19) Halsbury's Laws of England 2nd Ed. Vol. 4 pp. 107-108.

(20) See (18) *supra*.

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schools of learning, free schools and scholars in Universities ; the repair of bridges, ports, havens, cause-ways, churches, sea-banks and high-ways ; the education and preferment of orphans ; the relief, stock or maintenance of houses of correction ; the marriage of poor maids ; the supportation, aid and help of young tradesmen, handicraftsmen and persons decayed ; the relief or redemption of prisoners or captives ; the aid or ease of any poor inhabitants concerning payment of fifteens, setting out of soldiers, and other taxes.

The best description of charitable purposes is to be found in Lord Macnaghten's Judgment in *Commissioners of Income-Tax* v. *Pemsel*(21) : "'Charity' in its legal sense comprises four principal divisions : trusts for the relief of poverty ; trusts for the advancement of education ; trusts for the advancement of religion ; and trusts for other purposes beneficial to the community, not falling under any of the preceding heads. The trusts last referred to are not the less charitable in the eye of the law, because incidentally they benefit the rich as well as the poor, as, indeed, every charity that deserves the name must do either directly or indirectly." The fourth head is very vague, and it must not be taken to include every object of public general utility ; the object must come, if not within the words of the Statute of Elizabeth, at any rate within the spirit or intention of it.(22) Within one of these divisions, all charity to be administered by the Court must fall, though every object which might be brought within one of them is not necessarily a charity, for it must, further, be of a public nature and capable of administration by the court.(23) Only those purposes are charitable in the eye of the law which are of a public nature, whose object that is to say, is to benefit the community or some part of it, not merely particular private individuals or a fluctuating class of private individuals, pointed out by the donor.(24) The question whether a purpose will or may be operative for the public benefit is a question to be considered by the Court by forming an opinion on the evidence before it. A donor's opinion with regard

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(21) (1891) A.C. 531 at 583.
(22) Re Macduff (1896) Ch. 451 at 466, 467.
(23) Halsbury's Laws of England 2nd Ed. Vol. 4 p. 109.
(24) *Ibid* p. 110.

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to this and his motive are both immaterial.(25) *Pemsel*'s case has been followed by Courts in India in determining whether a particular object is charitable or not in law and the Courts here have also referred to the Statute of Elizabeth for this purpose.(26)

" Charity " is not confined to such charity as consists in affording relief from poverty but the word " charity " must be construed according to the legal and technical meaning given to that word by English Law.(1) The expression " charitable purposes " in the Act should be understood in the wider sense. If relief of wants occasioned by lack of pecuniary means is charity, adoption of preventive measures to ward off pecuniary wants is also charity.(2)

It is highly improbable that the Legislature in using the word " charitable " in the Act meant to draw a distinction between a charitable purpose and society and a religious purpose and society. The Act was passed in 1860 when according to English law, a gift for the advancement of religion or promotion of public worship or providing or maintaining a place of public worship would be for a charitable purpose and a society formed for such a purpose would be a charitable society. According to that law, therefore, a society formed for a religious purpose would be a charitable society, provided that it was for the benefit of the public, religious purposes being merely one class of charitable purposes.(3) Courts in England have always held that a bequest to a religious institution, or for a religious purpose, is *prima facie* a bequest for a " charitable " purpose, unless the contrary can be shown, and that the law applicable to " charitable " bequests, as distinguished from

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(25) Halsbury's Laws of England 2nd Ed. Vol. 4 p. 110; *Re Hummeltenberg, Beatly* v. *London Spiritualistic Alliance Ltd.* (1923) 1 Ch. 237.

(26) *The University of Bombay* v. *The Municipal Commissioner for the City of Bombay* (1891) I.L.R. 16 Bom. 217; *P. W. Monie* v. *The Rev. Robert Scott* 20 Bom. L.R. 839, A.I.R. 1918 Bom. 88, 43 Bom. 281, 47 I.C. 642.

(1) *Commissioners of Income Tax* v. *Pemsel* (1891) A.C. 531.

(2) *Sm. Asalata* v. *Society for P. C. I.* 58 Cal. 15, A.I.R. (1930) Cal. 397, 51 C.L.J. 272, 126 I.C. 707.

(3) *Md. Hussain* v. *M. M. J. M. Committee* I.L.R. (1940) Mad. 671, A.I.R. (1940) Mad. 167, at p. 170, (1940) 2 M.L.J. 436, 50 M.L.W. 734, (1940) M.W.N. 31, 189 I.C. 860.

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the law applicable to ordinary bequests, ought to be applied to a bequest to a religious institution, or for a religious purpose.(4) Thus in *Baker* v. *Sutton*(5) where the bequest was to such religious and charitable institutions and purposes as in the opinoin of the trustees might be fit and proper, it was held that a religious purpose is a charitable purpose. Again in *Wilkinson* v. *Lindgren*(6) where the bequest was to certain charitable institutions previously named, " or any other religious institution or purposes," as the trustees might think proper, religious purposes were treated as clearly charitable. In *Anjuman Islamia of Muttra* v. *Nasir-uddin*(7) the Allahabad High Court held that a religious purpose may be a charitable purpose, and a society for religious purposes will ordinarily be a society for charitable purposes. Charitable purposes are not restricted to the giving of alms or other charitable reliefs, but the words have a much wider legal meaning. Therefore, a religious society which had for its object the control and management of and the protection of the property appertaining to a certain public mosque, is a society which may legally be registered under the provisions of the Act.(8) Where a society is formed for certain purposes whose paramount object is charitable, the fact that some of the purposes may not be strictly charitable but religious would not render the society any the less a charitable society, if the purpose was one intended to benefit the public or a considerable portion of the public.(9) A society formed under the Act with the object of improving Islamic education and rendering pecuniary help to the poor is a society whose paramount object is charitable, and the fact that one of the objects of the society is also to conduct the affairs of the mosque, which does not involve the performance of any religious service by the members of the society cannot render the society a society formed for religious purposes.(10)

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(4) *In re White, White* v. *White* (1893) 2 Ch. 41.

(5) (1836) 1 Keen 224. See also *Townsend* v. *Carus* (1843) 3 Hare 257.

(6) (1870) Law Rep. 5 Ch. 570.

(7) 28 All. (1906) 384.

(8) *Ibid.*

(9) *Md. Hussain* v. *M. M. J. M. Committee* I.L.R. (1940) Mad. 671, A.I.R. (1940) Mad. 167, (1940) 2 M.L.J. 436, 50 M.L.W. 734, (1940) M.W.N. 31, 189 I.C. 860.

(10) *Ibid.*

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Societies formed by memorandum of association and registration.

1. Any seven or more persons associated for any literary, scientific or charitable purpose, or for any such purpose as is described in Section 20 of this Act, may by subscribing their names to a memorandum of association and filing the same with the Registrar of Joint-stock Companies [ ] form themselves into a society under this Act.

Repeal. The words and figures " under Act XIX of 1857 " within the square brackets were repealed by the Repealing Act, 1874 (XVI of 1874). See now the Indian Companies Act, 1913 (VII of 1913) S. 288.

Scope of the Section. Any seven or more persons associated for any literary, scientific or charitable purpose or for any purpose described in S. 20 may by subscribing their names to a memorandum of association and filing the same with the Registrar of Companies form themselves into a society.

Meaning of "persons". The word " persons " includes aliens although residing abroad, married women, bankrupts, persons who are trustees for other subscribers, persons who sign by agents, although only orally appointed. It also includes Corporations and Limited Companies.(11) It does not include an infant, as under the Indian Contract Act, a contract made by him is void, and not merely voidable as under English law.(12)

The General Clauses Act, 1897 (X of 1897) defines " person " as follows : " Person " shall include any Company or Association or body of individuals, whether incorporated or not." This definition, however, only applies to all Central Acts made after 1868 and thus will not apply to the present Act. See Ss. 3(39) and 4 of the General Clauses Act.

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(11) Halsbury's Laws of England 2nd Ed. Vol. 5 pp. 123-124 ; *Palmer's* Company Law 19th Ed. p. 23.

(12) *Mohori Bibee* v. *Dhurmodas Ghose* (1903) 30 I.A. 114, 30 Cal. 539. (P.C.) See also S. 11 Indian Contract Act.

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A firm name may, with the authority of the firm, be subscribed to a memorandum.(13)

Any literary, scientific or charitable purpose or any purpose described in S. 20. A society can be formed under this Section for any literary, scientific or charitable purpose or for any purpose described in S. 20. The societies referred to in S. 20 of the Act include those which are established, amongst other things, for the promotion of science, literature, fine arts and diffusion of useful knowledge and political education. It is therefore clear that the Act does not authorise the establishment of societies for the purpose of recreation or enjoyment, for instance, the playing of billiards or cards as distinguished from the literary, scientific and other instructional purposes specified in S. 20 of the Act.(14) In *Badger In re, Mansell* v. *Cobham*(15) Buckley J. held that looking at S. 33 of the English Act, (which corresponds to S. 20 of this Act, see Appendix VIII) providing billiard rooms, card rooms or facilities for playing ping-pong was outside the purposes contemplated by the Act, and that the words of the Section (S. 33 of the English Act) show that the development of an institution of the kind therein mentioned into a social club is not authorised by the Act.

It would further appear from the wording of this section as also of the preamble and S. 20 that the Act is not confined to Societies of a public or charitable nature but includes private institutions established for the purposes of the Act.(16) Thus S. 20 is to apply to societies " established for the foundation or maintenance of libraries or reading-rooms for general use among members or open to the public." These words contemplate a library or reading-room for general use among members or open to the public, and therefore there is a contrast between what is for the use of the public, and what is not for the use of the public, but for private members only. Therefore a society which is a library or reading-

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(13) Halsbury's Laws of England 2nd Ed. Vol. 5 p. 124.

(14) *In re Badger, Mansell* v. *Cobham* (1905) 1 Ch. 568, 74 L.J. Ch. 327, 92 L.T. 230, 21 T.L.R. 280.

(15) *Ibid.*

(16) *In re Russel Institution, Figgins* v. *Baghino* (1898) 2 Ch. 72, reported more fully 67 L.J. Ch. 411, 78 L.T. 88, 14 T.L.R. 406, 42 Sol. Jo. 508.

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room for general use among members, though not open to the public, is within the Act.

The whole of the society's objects must be within the scope of the Act. It should be noted that only societies, the whole of whose objects are substantially within the scope of the Act, can be registered under it. It is not sufficient that some of the objects of the society fall within the scope of the Act while others fall outside it. Such objects as are outside the scope of the Act must be deleted before the Registrar can register the society.

Subscribing their names. A subscriber usually subscribes the memorandum of association with his own hand, but he can subscribe by the hand of an agent duly authorised by him, and the Registrar does not call for evidence of authority if seven subscribe with their own hands.(17) The number of subscribers must be at least seven, but there may be as many more as the founders of the society may think fit.

In subscribing the memorandum of association care must be taken to write clearly. The signature should set out the full name of the subscriber and should be followed by the subscriber's address clearly written and sufficiently explicit, otherwise when the document comes before the Registrar of Companies he may refer it back on the ground that he cannot read the signatures. It is his duty to see that the requirements of the Act are complied with and that the documents are in order.

The signatures of the subscribers should be duly witnessed and attested. One witness for all the signatures will suffice, but the signature of a subscriber cannot be witnessed and attested by himself or another subscriber.(18)

Registrar of Joint-stock Companies. Section 288 of the Indian Companies Act provides that in Ss. 1 and 18 of the present Act, the words " Registrar of Joint-stock Companies "

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(17) Palmer's Company Law 19th Ed. p. 23.

(18) *Ibid* p. 24.

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shall be construed to mean the Registrar under the Indian Companies Act.

Associations not for profit—S. 26 Indian Companies Act, 1913. A society formed for any literary, scientific or charitable purpose, or for any such purpose as is described in S. 20, may instead of being registered under the Societies Registration Act, avail itself of the provisions of S. 26 of the Indian Companies Act and be registered as a Company with limited liability without the addition of the word "Limited" to its name. Under S. 26 of the Companies Act, an association capable of being formed as a limited Company and which has been or is about to be formed for promoting commerce, art, science, "religion," charity, or any other useful object and which applies or intends to apply its profits (if any) or other income in promoting its objects, and to prohibit the payment of any dividend to its members, may, on obtaining the appropriate licence from the Central Government, register itself as a Company with limited liability, without the addition of the word "Limited" to its name. The Central Government may grant the licence on such conditions and subject to such regulations as it thinks fit and it may revoke the same at any time. Such an association on registration shall enjoy all the privileges of limited Companies and be subject to all their obligations except those of using the word "Limited" as any part of its name, and of publishing its name and of sending lists of members to the Registrar.

Section 26 of the Companies Act has proved useful and several associations have been registered under it. Such an association becomes on registration a body corporate with perpetual succession. It can adopt in lieu of "company" a more suitable name such as chamber, club, college, guild, association. It can have a common seal; it can hold property in its own name without the intervention of trustees; and it can contract and take and defend legal proceedings in its own name.(19) Associations obtaining the licence under S. 26 register in almost all cases as companies limited by guarantee.

Societies established prior to the Act. A society established prior to the Act need not file a memorandum of association

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(19) Palmer's Company Law 19th Ed. p. 240.

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signed by seven members as required by S. 1. The application for registration of such a society should be signed by each member of its governing body.

Societies in Bombay—The Bombay Public Trusts Act, 1950. (Bombay Act XXIX of 1950). A society formed either for a religious or charitable purpose or for both and registered under the Societies Registration Act, comes within the meaning of the word " Public Trust " as defined in the Bombay Public Trusts Act, 1950 and such a society must also be registered under this Act. As nearly all the societies formed and registered under the Act in Bombay fall within the meaning of the word " Charitable purpose " as defined in S. 9 of the Bombay Public Trusts Act, they must be registered under that Act also.

Memorandum of association.

2. The memorandum of association shall contain the following things (that is to say)—the name of the society; the objects of the society; the names, addresses and occupations of the governors, council, directors, committee or other governing body to whom, by the rules of the society, the management of its affairs is entrusted.

A copy of the rules and regulations of the society certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the memorandum of association.

Scope of the Section. The memorandum of association must state (1) the name of the society (2) the objects of the society (3) the names, addresses and occupations of the members of the executive committee or managing committee or governing council, or any other governing body to whom the management of the affairs of the society is entrusted in accordance with the rules and regulations of the society. A certified copy of the rules and regulations of the society must also be filed with the memorandum. For forms of memorandum of association and rules and regulations, see Appendices I, II, V and VI.

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Power of Court to grant injunction to restrain registration of society under particular name. The Court has the power to grant an injunction to restrain registration of a society under a particular name which is identical with that by which any other existing society has been registered, or in the opinion of the Court so nearly resembles such name as to be likely to deceive the public or the members of either society. The Court however must be satisfied, that there is a tangible risk or possibility of damage resulting from confusion caused in the public mind, or in other words by reason of the public being deceived by the use of such name.(20)

It is true that apart from certain special statutes which entitle companies or persons to the exclusive use of a name or a mark, such as the Companies Act, or the Trade Marks Act, a man has no exclusive proprietary rights in a fancy name or title, and normally and principally it is in relation to the user of a name associated with a certain business or trading concern or some profession that the Court affords protection and grants an injunction restraining the adoption and use of such a name by another when the Court is satisfied that damage has been caused or there is a tangible risk or possibility of damage resulting from confusion caused in the public mind, or in other words, by reason of the public being deceived by the use of such name. But the decided cases(21) show that the protection afforded by injunction has not been restricted absolutely only to cases of passing off in relation to business names or names associated with sale of goods. There are exceptions to the general rule. Thus in *British Legion* v. *British Legion Club* (*Street*) *Ltd.*(22) the protection was extended to a charitable institution which was incorporated by Royal Charter for the purpose of taking over and carrying on the management of a voluntary association or society known as British Legion whose activities consisted in promoting the unity of all who had served in His Majesty's forces and in educating public opinion to the view

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(20) *Srinivas Malliah* v. *Krishna Kumar* A.I.R. 1952 Cal. 804.

(21) *Srinivas Malliah* v. *Krishna Kumar* A.I.R. 1952 Cal. 804 ; *British Legion* v. *British Legion Club* (*Street*) *Ltd.* 48 R.P.C. 555 ; *British Medical Association* v. *Marsh* 48 R.P.C. 565 ; *Purshottam Das* v. *Bai Dahi* I.L.R. (1940) Bom. 339, 42 Bom. L.R. 358, A.I.R. 1940 Bom. 205, 189 I.C. 209.

(22) 48 R.P.C. 555.

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that the maintenance of the disabled and the welfare of ex-service men and women and their dependants was a national duty. The society had its own rules and constitution, and large sums of moneys used to be collected by way of donation from individuals and the general public and were applied for the benefit of ex-service men and women and their children and dependants. The institution had its head office in London and there were about 2703 branches in Great Britain and in other parts of the world. A company limited by guarantee was incorporated in 1922 in the name of British Legion Club (Street) Ltd., which had its registered office in the County of Somerset. The objects of this Company were to establish, maintain and conduct a non-political social club for the purpose of social intercourse and recreation and to carry on the same as a membership club affording to members and friends all the privileges of a club. The British Legion instituted an action against British Legion Club (Street) Ltd. and asked for an injunction restraining the user of the name of the defendant company on the ground that such use had misled and/or was calculated to mislead members of the general public into believing that the defendant company was part of or connected with the British Legion and was calculated to obtain financial advantage from such misrepresentation. Farwell J. held that as people might be misled into thinking that the defendant company was a branch of the plaintiff association, and as any financial trouble or discredit that the defendant company might suffer in future might reflect discredit on the plaintiff association, and might result in damage to the association, an injunction should be granted and his Lordship accordingly granted an injunction. This was not a case of business or trading concern in the strict sense, yet an injunction was issued because, there was possibility of confusion between the two associations and tangible possibility of damage to the plaintiff association. In *Purshottam Das* v. *Bai Dahi*(23) where an idol in a particular temple had acquired considerable fame, and pilgrims from various parts of the country made vows to the image and came to fulfil their vows to the temple with valuable offerings, the establishment of another temple of the same name and the installation therein of an identical image, which was likely to deceive the

(23) I.L.R. (1940) Bom. 339, 42 Bom. L.R. 358, A.I.R. 1940 Bom. 205, 189 I.C. 209.

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pilgrims into making offerings to the newly installed image under the impression that they were making them to the old one, was restrained by the Court by an injunction. The principles of the English Cases of passing off were applied in this case.

In *Srinivas Malliah* v. *Krishna Kumar*(24) the defendants had applied to the Registrar of Joint-stock Companies at Calcutta to register an association, under the name and style of ' The Indian National Congress ' as a society under the Societies Registration Act. The Plaintiffs who were the representatives of the old Congress Organization started in 1885 at New Delhi under the name ' Indian National Congress ' sued the defendants for an injunction restraining them from getting the Society registered by that name or any other name similar to it, and also applied for *ad interim* injunction. It was alleged in the plaint and in the application for injunction that the application for registration was not *bona fide*, but was made with the *mala fide* object of deceiving the public and leading them by mistake to pay subscriptions and donations in the belief that they were doing so to the organisation of the Indian National Congress of which the plaintiffs were members and also to induce the public to join the society proposed to be registered, as members thereof, in the belief that they were joining the plaintiffs' organisation. It was further alleged that the objects and purposes of the proposed association were colourable imitations of the objects and purposes of the Indian National Congress. In the course of the arguments it was submitted on behalf of the plaintiffs that there was likelihood of the plaintiffs' organisation becoming involved in litigation, by reason of any wrongful acts of the defendants. It was held by the Court, that the acts of the defendants in getting the society registered tended to injure and cause damage to the plaintiffs in their said organisation, and as a matter of law that was sufficient ground for granting an injunction. Although the objects of the society proposed to be registered by the defendants, were couched in a different language, the activities to be carried on by the society, if formed, would not be dissimilar to the activities of the Indian National Congress. In the view of the Court, there was every possibility of a confusion in the mind of the public to the effect that the society of the defendants

(24) A.I.R. 1952 Cal. 804.

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was a branch of, and was sponsored by, the central organisation of the Indian National Congress at New Delhi. If the society ever became involved in pecuniary difficulties or was guilty of any misdeeds, the same was likely to reflect discredit upon the central organisation and its branches, and might seriously prejudice their activities. Furthermore, there was every likelihood of the congress organisation being deprived of the subscriptions which it would have got from persons who were likely to become members of the congress. The Court while granting the injunction restraining the registration of the society under the name of The Indian National Congress, however held, relying on *McCulloch* v. *May Ltd.*(25), that the likelihood of the plaintiffs' organisation becoming involved in litigation by reason of any wrongful acts of the defendants was wholly visionary and illusory and should not weigh with the Court in the matter of granting injunction.

Change of name of registered society. The following States have amended the Act so as to provide for a change of name by a society :

(1) Bombay—The Societies Registration (Bombay Amendment) Act, 1948. (Bombay Act LIII of 1948).

(2) Assam—The Societies Registration (Assam First Amendment) Act, 1948 (Assam Act XIV of 1948).

(3) Bihar—The Societies Registration (Bihar Amendment) Act, 1948 (Bihar Act XXX of 1948).

(4) East Punjab—The Societies Registration (East Punjab Amendment) Act, 1949 (East Punjab Act VI of 1949).

(5) West Bengal—The Societies Registration (West Bengal Amendment) Act, 1950 (West Bengal Act XVI of 1950).

The Sections of the various State Acts providing for a change of name have been set out immediately after S. 12. See pp. 48 to 55.

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(25) (1947) 2 All. E.R. 845.

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Change of Office of a registered society. Unlike a company registered under the Companies Act, the memorandum of association of a society registered under the Act, need not state the registered office of the society. There is also no provision in the Act whereby a society can change its registered office from one State to another. In the absence of any such provision in the Act, it would seem that if a society changes its registered office from one State to another, the Registrar of Companies in the State to which the office of the society is transferred, may refuse to accept the change of registered office, and to take over the file of documents relating to the society from the Registrar of the State where the society is registered in as much as such change of office is not authorised by law.

Objects of the Society. The objects of the society should be clearly set forth in the memorandum of association for the society can do only what is within, or incidental to the objects stated therein.(26) The objects of the society can be altered, extended or abridged in the manner laid down in S. 12. Section 12 gives societies registered under the Act very wide powers of alteration of their purposes provided they include one or more of the purposes mentioned in the preamble and S. 20. In this respect, societies registered under the Act differ essentially from Companies incorporated under the Companies Act, as the powers of alteration of such Companies with regard to the conditions, objects and other provisions of the memorandum are considerably restricted under Ss. 10 and 12 of the Companies Act.

Rules and Regulations of the Society. In matters of internal government, the society is governed by its rules and regulations. The rules and regulations provide for the terms of admission of members; the fines and forfeitures to be imposed on any member; the consequences of non-payment of any subscription or fine; the resignation and expulsion of members; the appointment and removal of trustees and their powers; the manner of appointing and removing the committee of management (by whatever name) and the powers of such committee;

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(26) *Ashbury Railway Carriage and Iron Co.* v. *Riche* (1875) L.R. 7 H.L. 653.

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the mode of holding meetings and rights of voting; the manner of making, altering and rescinding rules; for the investment of the funds, keeping of accounts and for an annual or periodical audit of accounts, provisions for the manner of dissolving the society, and such other matters as may be thought expedient, having regard to the nature and objects of the society.

Rules and Regulations form part of the contract between the society and its members. The rules and regulations of the society form part of the contract between the members and the society but it may be, and generally is a variable contract, which may be altered in any of its provisions in the manner provided in the rules for amending or rescinding rules, and without the consent of individual members affected by such alterations.(1) The alteration in the rules must, however, be made *bona fide* and for the benefit of the society as a whole.(2)

It is usual for the secretary of the society to send a copy of the rules and regulations to every new member on admission, but this is not necessary. If the rules are accessible to the members, they are deemed to have notice of them and are bound by them.(3)

Ambiguity in rules—validity. If any of the rules and regulations of a society is ambiguous, it is void for uncertainty, and no cause of action can be founded on its breach.(4) Thus in *Shepherd* v. *Duncan*(5) the defendant on becoming a member of a society called "The New Water Colour Society" agreed to conform to and be bound by the rules of the society. One of the rules of the society was that "every member on leaving the society should become bound to the president to forfeit twenty guineas, and to send a water colour painting to an exhibition." On his leaving the society, an action was brought against the defendant for a breach of the rule. The Court of Exchequer gave judgment for

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(1) Halsbury's Laws of England 2nd Ed. Vol. 15 p. 319.

(2) *British Equitable Assurance Co.* v. *Bailey* (1906) A.C. 35; *Allen* v. *Gold Reefs of West Africa Ltd.* (1900) 1 Ch. 656 at 671.

(3) *Raggett* v. *Musgrave* (1827) 2 C. & P. 556; Halsbury's Laws of England 2nd Ed. Vol. 4 p. 488.

(4) *Shepherd* v. *Duncan* (1850) 15 L.T.O.S. 303 Ex. Ch.

(5) (1850) 15 L.T.O.S. 303 Ex. Ch.

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the defendant, which was confirmed in appeal, on the ground that the rule was ambiguous and meaningless and therefore the breach of it by the defendant did not give rise to a cause of action against him. Patteson J. while confirming the judgment of the Court of Exchequer observed, " It does not appear that there is any promise to pay. The rule may mean that the party is to forfeit or that he is to pay, but no one can tell what. It says that each member shall become bound to the president to forfeit; what that means I do not know. As to whether there was a consideration or not, it is not material, as there is no promise, and there is no breach."

Secretary of a society retaining funds contrary to rules —restraint by Court. Where, by the rules of a society, a salaried secretary is bound to pay the money received by virtue of his office to the treasurer of the society, and he retains monies so received by him, and retains the same in payment of arrears of salary alleged to be due to him, the Court will restrain him from acting as secretary.(6)

Enforcement of Statutory objects—Writ of Mandamus against a society. Where a society fails to carry out the provisions of a public general statute by which it is regulated, a writ of mandamus may issue against the society compelling it to carry out the provisions of the statute.(7)

Registration and Fees.

3. Upon such memorandum and certified copy being filed, the registrar shall certify under his hand that the society is registered under this Act. There shall be paid to the registrar for every such registration a fee of fifty rupees or such smaller fee as the [(Provincial—in Pakistan), (State—in India) Government] may, from time to time, direct; and all fees so paid shall be accounted for to the [(Provincial—in Pakistan) (State —in India) Government].

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(6) *Shaw* v. *Hill* (1845) 1 Holt. Eq. 99; 71 E.R. 685.

(7) *Regina* v. *The Pharmaceutical Society* (1854) 2 W.R. 220.

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Amendments. The words within the first square brackets were substituted for " the Governor-General of India in Council " and those within the second square brackets were substituted for " Government " by the Government of India (Adaptation of Indian Laws) Order, 1937 read with Adaptation of Laws Order, 1950 in India.

Section amended in its application to C.P. and Berar (Madhya Pradesh). This Section was amended in its application to the Province of C.P. and Berar by S. 14 of the Central Provinces and Berar, Vidya Mandir Act, 1939 (C.P. & Berar Act III of 1940) as follows :—

To Section 3, add the following proviso, namely :

" Provided that no such fee shall be payable for the registration of a society formed with the object of running an educational institution whose objects are similar to the objects of a Vidya Mandir established under Part I of the Central Provinces and Berar Vidya Mandir Act, 1939."

Section amended in its application to East Punjab. This section was amended in its application to the Province of East Punjab by the Societies Registration (East Punjab Amendment) Act, 1948 (East Punjab Act XXXII of 1948) as follows :—

To Section 3, the following proviso shall be added, namely :

" Provided that in the case of a society which had prior to the 15th August 1947, been registered by the Registrar, Joint-stock Companies at Lahore, the Provincial Government may grant exemption from payment of whole or any part of the registration fee."

Scope of the Section. The registrar issues a certificate that the society is registered under the Act upon the memorandum of association and the certified copy of the rules and regulations being filed with him.

Certificates not chargeable with fees. Certificates issued under S. 3 are not chargeable with fees, although under S. 19

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certified copies of any documents filed under the Act are so chargeable.

Registration whether obligatory on compliance with Ss.1 and 2. It is submitted that having regard to the provisions of Ss. 1, 2, and 3 of the Act, it is obligatory on the registrar to issue the certificate of registration, if the society is formed for any of the purposes mentioned in S. 1 and if the requirements of S. 2 are complied with. The methods by which the society proposes to carry out its objects are a matter distinct from the memorandum of association and the rules and regulations and cannot affect the question of registration. At the moment of registration all that the registrar is concerned with is to see that the requirements of Ss. 1 and 2 have been complied with. Therefore it would not be competent for the registrar to refuse registration to a society on the ground that it proposes to raise funds for the purposes of the society by unlawful means. If however, after registration, the society is found to promote and carry out schemes which offend against the law, it may render itself liable to appropriate criminal proceedings.

Presumption of registration. The presumption that a society is duly registered under the Act arises, not on the certificate of registration granted by the registrar under this section, but on the copies of the rules and regulations and memorandum of association certified under S. 19 which constitutes them *prima facie* evidence of the matters therein contained.(8) In this respect, a registered society differs from a company incorporated under the Companies Act for in the case of such a company, the presumption of due registration arises on the certificate of incorporation granted by the registrar under the Companies Act. See S. 24 of the Companies Act.

Effect of registration. A society registered under the Act is an association of persons which is neither a corporation nor a partnership nor an individual. It may however be described as "a species of quasi corporation" inasmuch as it possesses the most

(8) *Sunder Singh* v. *Sunder Singh* A.I.R. 1938 Privy Council 73, I.L.R. 1938 Lah. 63, 65 I.A. 106, 40 Bom. L.R. 724.

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essential element in the legal conception of a corporation, namely, continuous identity. It is significant to observe that although the members as well as the governing council of the society are a fluctuating body, the Act seeks to make the identity of the society continuous by expressly providing in S. 7 that no suit or proceeding in any Civil Court shall abate or discontinue by reason of the person by or against whom such suit or proceeding may have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but that the same suit or proceeding shall be continued in the name of or against the successor of such person. The original member or members of the society and his or their successors are one. The liability or obligation once binding on the society will bind the successors even though they may not be expressly named, and in this, the society savours of the character of a corporation.(9)

The Bombay and Madras High Courts have held that once a society is duly registered under the Act, it enjoys the status of a legal entity, apart from the members constituting it, and is capable of suing or being sued in its corporate capacity.(10) The Bombay High Court has gone further and in *Satyavart Sidhantalankar* v. *Arya Samaj*(11) Bhagwati J. observing that the legal status of a registered society is similar to that of a registered trade union held that the registered society may sue or be sued not only in the name of the president, chairman or principal secretary or trustees as provided in S. 6, but that it may also sue or be sued in its registered name, the society upon its registration under the Act, having come into existence as a legal entity apart from the members constituting it.

Indian Succession Act 1925, Section 236—Society a "person". A society registered under the Act even if not a corporation in the full sense, is certainly a legal " person " within the meaning of the word " person " in S. 236 of the Indian Succes-

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(9) *Satyavart Sidhantalankar* v. *Arya Samaj* 48 Bom. L.R. 341, A.I.R. 1946 Bom. 516, 229 I.C. 84.

(10) *Ibid*; *Rukminamma* v. *Venkata Ramdas* A.I.R. 1940 Mad. 949, (1940) 2 M.L.J. 554, 52 M.L.W. 549, 1940 M.W.N. 1015, 191 I.C. 816.

(11) See (9) *supra*.

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sion Act and therefore letters of administration under that Act can be granted to such a society.(12)

Guardian and Wards Act, 1890—Society cannot be appointed Guardian. A society registered under the Act (under the name " the Society for the Protection of Children in India ") cannot be appointed guardian of the person or property of a minor. In considering the appointment of a guardian of the minor's property, any one having an interest adverse to that of the minor cannot be appointed such guardian, and for the proper management of the property, the character, the capacity and the fitness of the individual to be appointed has to be taken into consideration. It is for this reason that an individual only is to be appointed by the Court as a guardian and not a society whose office-bearers are liable to change.(13)

A society is not a " person " within the meaning of that word as defined in S. 4 Cl. (2) of the Guardian and Wards Act.(14)

Land Acquisition Act, 1894—Society a " Company ". The Indian Companies Act, 1913, does not apply to a society registered under the Act unless it avails itself of the provisions of S. 26 of the Companies Act. For the purposes of the Land Acquisition Act however, the expression " Company " includes a society registered under the Act. Therefore under the Land Acquisition Act, Government can compulsorily acquire land for a registered society, if it is satisfied that (*a*) the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by it or for the provision of amenities directly connected therewith, or (*b*) such acquisition is needed for the construction of some work and that such work is likely to prove useful to the public. See Ss. 3(*e*), 4, 5 and 38 to 42 of the Land Acquisition Act, 1894.

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(12) *Ganga Sahai* v. *Bharat Bhan* A.I.R. 1950 All. 480, 1950 A.L.J. 353, 1950 A.W.R. 348.

(13) *Sm. Asalata* v. *Society for P. C. I.* A.I.R. 1930 Cal. 397, 58 Cal. 15, 51 C.L.J. 272, 126 I.C. 707.

(14) *Ibid.*

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The Provident Funds Act, 1925—may be made applicable to a registered society. The State Government has the power, if it deems fit, by notification in the Official Gazette, to add to the Schedule specified in the Provident Funds Act, the name of a society registered under the Act. Thereafter the State Government may, by notification in the Official Gazette direct that the provisions of the Provident Funds Act shall apply to any Provident Fund established for the benefit of the employees of the society and on the making of such declaration, the Act shall apply accordingly as if such Provident Fund were Government Provident Fund and the authority having custody of the Fund were the Government. See the Provident Funds Act 1925, S. 8.

Unregistered society. A society not registered under the Act, not being a legal entity, would have the character of a club or other association. Such a society cannot sue or be sued except in the name of all the members of the society, (14a) or where there are numerous members, in the name of the secretary or other members of the governing body of the society on their own behalf and on behalf of all the other members of the society, under the provisions of order 1, rule 8 of the Civil Procedure Code.(14b) It would not be competent to the secretary or the other members of the governing body of the society to sue or be sued alone in respect of a matter in whch the society is interested even though authority in that behalf has been conferred on them by all the members of the society.(14c)

Annual list of managing body to be filed.

4. Once in every year, on or before the fourteenth day succeeding the day on which according to the rules of the society, the annual general meeting of the society, is held, or if the rules do not provide for an annual general meeting, in the month of January, a list shall be filed with the Registrar of Joint-stock Companies, of the names, addresses and

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(14a) *Panchaiti* v. *Gauri Kuar* (1898) 20 All. 167. *Hriday Nath Roy* v. *Akhil Chandra Roy* (1929) C.L.J. 357.

(14b) *The Muhammadan Association of Meerut* v. *Bakshi Ram* I.L.R. 6 All. 284.

(14c) *Ibid.*

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occupations of the governors, council, directors, committee or other governing body then entrusted with the management of the affairs of the society.

Comment. The section requires the society to file annually with the Registrar of Joint-stock Companies a list of all the names, addresses and occupations of the governors, council or other governing body entrusted with the management of the affairs of the society. The section, however, does not provide any penalty for failure by the society to file the list. As a result, proceedings in respect of a default by the society in filing the annual list can scarcely be successful.

The States of Bihar, Assam and East Punjab have passed amending Acts, providing a penalty for failure to comply with the provisions of S. 4. For East Punjab Act see below and at p. 75. For Bihar and Assam Acts see S. 21 of those Acts set out at the end of S. 20 of this Act at pp. 74, 75.

Section amended in its application to East Punjab. This section has been amended in its application to the State of East Punjab by the Societies Registration (East Punjab Amendment) Act, 1949 (East Punjab Act VI of 1949) as follows :—

" 2. In section 4 of the Societies Registration Act, 1860 (hereinafter referred to as the " said Act ") the following words shall be added, namely :—

" If a society makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees."

See also S. 21 of the same Act at p. 76.

New Section—Bihar Act. The following new Section, S. 4A has been inserted by the Societies Registration (Bihar Amendment) Act, 1950 (Bihar Act IV of 1951).

Changes in managing body and rules to be filed.

" **4A.** (1) Together with the list mentioned in Section 4, there shall be sent to the Registrar, a statement showing all changes during the year to which the list relates, in the personnel of the governors, council,

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directors, committee or other governing body to whom the management of the affairs of the society is entrusted and also a copy of the rules of the society corrected up to date and certified to be a correct copy by not less than three of the members of the governing body.

(2) A copy of every alteration made in the rules of the society, certified to be correct copy by not less than three of the members of the governing body, shall be sent to the Registrar within fifteen days of the making of such alteration."

The same Act has also inserted a new Section, S. 21, providing penalty for non-compliance with the provisions of S. 4. See at the end of S. 20.

New Section—Assam Act. The following new section, S. 4A, has been inserted by the Societies Registration (Assam Third Amendment) Act, 1952 (Assam Act XI of 1952).

Changes in managing body and rules to be filed.

"**4A.** (1) Together with the list mentioned in Section 4, there shall be sent to the Registrar of Joint-stock Companies a statement showing changes during the year to which the list relates, in the personnel of the governors, council, directors, committee or other governing body to whom the management of the affairs of the society is entrusted and also a copy of the rules of the society corrected up to date and certified to be a correct copy by not less than three of the members of the governing body.

(2) A copy of every alteration made in the rules of the society, certified to be a correct copy by not less than three members of the governing body shall be sent to the Registrar of Joint-stock Companies within fifteen days of the making of such alterations."

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The same Act has also inserted a new Section, S. 21, providing penalty for non-compliance with the provisions of S. 4. See at the end of S.20.

Property of society how vested.

5. The property, movable and immovable, belonging to a society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such society, and in all proceedings, civil and criminal, may be described as the property of the governing body of such society by their proper title.

English Act. This Section is based on S.20 of the corresponding English Act. It differs, however, from the English Section in some particulars and is wider in scope. See Appendix VIII.

Scope of the Section. In all legal proceedings, the movable and immovable property belonging to a society, and not vested in trustees, may be described as belonging to the governing body by their proper title.

Property if not vested in trustees. The rules and regulations of a registered society generally provide for the appointment of trustees, and for the vesting of the property of the society in them. If the rules and regulations do not so provide, the property shall be deemed to be vested in the governing body. The trustees or the governing body hold such property for the use and benefit of the society and its members.

A society registered under the Act is a corporate body with separate juristic personality which is distinct and separate from that of its members. The moneys and properties belonging to the society are vested either in the trustees, if any, duly appointed under the provisions of the Act, or in the absence of trustees, in the governing body. A firm which at best is an ordinary member of the society, is not by reason of such membership, in the position of a trustee in respect of moneys belonging to the society as such. Hence the investment of moneys belonging to the society, by the society, with a firm which happened to be also a member of

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the society will not make the firm a trustee in respect of the amounts invested with the firm.(15)

Property vested in trustees of unregistered society—effect of subsequent registration. A property which has vested in the trustees of a society before its registration, becomes after its registration, a property " belonging to the society " and must be deemed to be the property of the society as from the date of the registration. The title and ownership of such a property belongs to the society after its registration, and no question of transfer of ownership arises. No regular deed of conveyance in favour of the registered society is necessary. As a matter of fact, and strictly speaking, there is no transfer of ownership. That which belonged to an unregistered society continues after the change in status of that society on being registered, as belonging to the registered society.(16)

No general power to borrow. A society registered under the Act, unlike a commercial or trading undertaking, has no implied general power to borrow money for the purpose of carrying on its activities.(17) Such a power must be expressly given to it by its memorandum of association and rules and regulations.

Suits by and against societies.

6. Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the society, and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion :

Provided that it shall be competent for any person having a claim or demand against the society,

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(15) *N. A. Nannier* v. *Official Asisgnee* A.I.R. 1951 Mad. 875 ; (1951) 1 M.L.J. 548, 1951 M.W.N. 353, 64 M.L.W. 654.

(16) *Harinarayan Shaw* v. *Gobardhandas Shroff* 89 C.L.J. 84, A.I.R. 1953 Cal. 140.

(17) *In re Badger, Mansell* v. *Cobham* (1905) 1 Ch. 568, 74 L.J. Ch. 327, 92 L.T. 230, 21 T.L.R. 280.

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to sue the president, or chairman, or principal secretary or the trustees thereof, if on application to the governing body some other officer or person be not nominated to be the defendant.

English Act. This Section is based on S. 21 of the corresponding English Act. See Appendix VIII.

Scope of the Section. A registered society may sue or be sued in the name of the president, chairman, principal secretary or trustees, as determined by the rules of the society, or if the rules are silent, in the name of the person appointed for this purpose by the governing body. Any person having a claim or demand against the society may sue the president or chairman, if upon application to the governing body some other officer or person is not nominated to be the defendant.

Provisions in S. 6 construed as not mandatory. The Bombay High Court in *Satyavart Sidhantalankar* v. *Arya Samaj*(18) has held that the provisions in this section in regard to suits by or against registered societies are not mandatory. They show a mode in which suits could be filed by or against such societies. Once a society is duly registered under the Act, it enjoys the status of a legal entity, distinct and separate from the members constituting it and is capable of suing or being sued either in the name of its president, chairman or principal secretary as provided in S. 6 or in its registered name.(19) The provisions contained in Ss. 6, 7 and 8 of the Act as regards suits by and against societies, non-abatement of suits and enforcement of judgments against societies are not inconsistent with the user of the registered name of the society in connection with legal proceedings.(20) The use of the name of the society is not compulsory but it is at least permissive.(21)

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(18) 48 Bom. L.R. 341 at 350, A.I.R. 1946 Bom. 516, 229 I.C. 84.
(19) *Ibid.*
(20) *Ibid.*
(21) *Ibid.*

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Service of summons. Where a society is sued in the name of the president or any other person as provided by the rules and regulations, the president or such other person must be personally served.

Principles governing suits by and against registered societies. The position of a society registered under the Act is like that of a club or joint-stock company.(22) The position of the members of such societies is similar to that of shareholders of the company.(23) Every member of the society joins it on the basis that *prima facie* the majority of its members is entitled to exercise its powers and control its operations generally. The rule of the majority is the normal basis of the society. In the absence of any specific rules and regulations governing the conduct of its affairs, this would be the normal presumption. If unanimity of opinion were needed for the passing of any proposition, it would have to be expressly provided for. In the absence of any such provision the normal state of affairs would be that the opinion of the majority would be binding on the society.

The Court will not interfere with the internal management of a society acting within its powers and in fact has no jurisdiction to do so. In order to redress a wrong done to the society or to recover moneys alleged to be due to the society, the action should *prima facie* be brought by the society itself.(24) Where, however, the persons against whom the relief is sought constitute a majority of the members of the society and will not permit an action to be brought in the name of the society, the Court will allow the members complaining to bring an action in their own names. This, however, is mere matter of procedure in order to give remedy for a wrong which would otherwise escape redress and it is obvious that in such an action the plaintiffs cannot have a larger right to relief

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(22) *A. S. Krishnan* v. *M. Sundaram* 43 Bom. L.R. 562, A.I.R. 1941 Bom. 312, I.L.R. 1941 Bom. 497, 197 I.C. 308.

(23) *Ibid*; *Satyavart Sidhantalankar* v. *Arya Samaj* 48 Bom. L.R. 341, A.I.R. 1946 Bom. 516, 229 I.C. 84.

(24) See (22) and (23) *supra*, following *Foss* v. *Harbottle* (1843) 2 Hare 461; *Mozley* v. *Alston* (1871) 1 Ph. 790; *Lord* v. *The Governor and Company of Copper Mines* (1848) 2 Ph. 740; and *Burland* v. *Earle* (1902) A.C. 83.

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than the society itself would have if it were plaintiff and cannot complain of acts which are valid if done with the approval of the majority of the members or are capable of being confirmed by the majority. The cases in which the minority can maintain such an action are, therefore, confined to those in which the acts complained of are of a fraudulent character or beyond the powers of the Society. A familiar example is where the majority are endeavouring directly or indirectly to appropriate to themselves money, property, or advantages which belong to the society. It should be added that no mere informality or irregularity which can be remedied by the majority will entitle the minority to sue, if the act when done regularly would be within the powers of the society, and the intention of the majority of the members is clear.(25)

The supremacy of the majority is, however, subject to certain exceptions. These are, as the authorities show, (1) where the act complained of is *ultra vires* the society(26); (2) where the act complained of is a fraud on the minority of the members of the society; and (3) where there is an absolute necessity to waive the rule in order that there may not be a denial of justice(1).

If the majority of the members of the society are guilty of any act which is *ultra vires* the society, or which is in fraud of the minority, it would not constitute merely an infringement of the rights of the minority but would be a wrong perpetrated by them on the society itself. That being the position, the society would be the only person entitled to institute the suit. In so far, however, as the majority of the members of the society are in charge of the affairs of the society and are also in a position to outvote the minority in any meeting of the society which may be called for the purpose, it would be impossible for the minority to obtain the sanction or consent of the society to the institution of the suit, even though it is a suit for redressing a wrong done to the society. In these circumstances, it would be competent to the

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(25) *Burland* v. *Earle* (1902) A.C. 83 at p. 93.

(26) *Suryanarayan Rao* v. *Subrahmanyam* A.I.R. 1940 Mad. 902, 1940 M.W.N. 771, (1940) 2 M.L.J. 330, 52 M.L.W. 308.

(1) Palmer's Company Precedents 16th Ed. Part I p. 1039.

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minority of the members of the society to institute a suit on behalf of themselves and other members of the society.(2)

A society, duly registered under the Act in 1932, was founded for the purpose of promoting the education of boys and girls hailing from South India. At a general meeting of the society called on 4th December 1938, eight persons were elected to the managing committee, and they co-opted one more member in April 1939. The managing committee resolved to borrow money, in order to erect a school building and entered into an agreement with certain parties for that purpose. The plaintiff, a member of the society, challenged the constitution of the managing committee as well as the advisability and legality of those acts. A general meeting of the society held on 15th October 1939 validated the election of the managing committee and their acts. The plaintiff then filed a suit on behalf of himself and other members of the society except the defendants, who were the nine members whose appointment to the managing committee was confirmed by the general meeting held on 15th October 1939, for a declaration that the loans raised by the defendants were unauthorised and prayed that a managing committee be constituted under the direction of the Court. It was held by Kania J. (as he then was) that as the acts of the defendants which were challenged were in respect of the alleged wrong done to the Society as a body, it was necessary that the society should be a party to the litigation and that it was not competent to the plaintiff either alone or representing himself and the other members except the defendants to file a suit, without ascertaining the wishes of the society. Consequently, the suit as framed was not maintainable and the Court had no jurisdiction to try it in the absence of the society.(3)

No suit to enforce a "right to subscribe." Although a society is entitled to collect subscriptions from the public for the purpose of carrying on its activities, it is under no obligation whatever to the public to accept any subscriptions which may be

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(2) *Satyavart Sidhantalankar* v. *Arya Samaj* 48 Bom. L.R. 341 at p. 359, A.I.R. 1946 Bom. 516, 229 I.C. 84.

(3) *A. S. Krishnan* v. *M. Sundaram* 43 Bom. L.R. 562, A.I.R. 1941 Bom. 312, I.L.R. 1941 Bom. 497, 197 I.C. 308.

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offered to it. No suit will therefore lie by a member of the public to enforce the " right to subscribe " and to compel the society to accept his offer of subscription and admit him to whatever privileges attach to the membership of the society.(4)

In default of such determination. Where a suit was instituted against a society in the name of its secretary and during the pendency of the suit, the secretary resigned and the rules and regulations of the society did not provide for the contingency arising upon such resignation, it was held that a resolution passed by the managing committee of the society authorising the additional secretary of the society to file a revision application against the decision in the suit, did comply with the requirements of S. 6, namely, that in the event of the rules and regulations of the society not providing in whose name the society could sue or be sued, the society could sue in the name of such person as shall be appointed by the governing body for the occasion.(5)

Proviso. Nomination. Where a person appointed for being sued on behalf of the society refused to act and no other nomination was made, it was held that no effective nomination having been made by the society, the suit constituted as it then was, with the president and honorary secretary as defendants, was validly constituted so far as the representation of the society was concerned.(6)

Unregistered Society. A society not registered under the Act is not a legal entity and therefore cannot sue or be sued in its name. Such a society cannot sue or be sued except in the name of all the members of the society(7) or where there are numerous members, in the name of the secretary or

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(4) *A. P. Bose* v. *Queen's Anglo-Sanskrit School* A.I.R. 1916 Oudh. 94, 34 I.C. 263, 19 O.C. 15.

(5) *Agra Province Zamindar Association* v. *Prem Mohan* A.I.R. (37) 1950 All. 447.

(6) *Sashi Kantha* v. *Promode Chandra* A.I.R. 1932 Cal. 600 at 615, 59 Cal. 859 at pp. 892-893, 55 C.L.J. 205, 138 I.C. 882.

(7) *Ram Sarup* v. *The Arya Samaj, Dhampur* A.I.R. 1925 All. 337, 47 All. 342, 23 A.L.J. 37, 86 I.C. 255 ; *Bhagwandas* v. *Pinjra Pole Pashu Anathalaya* A.I.R. 1927 All. 789, 103 I.C. 45 ; *Panchaiti* v. *Gauri Kuar* (1898) 20 All. 167 ; *Hriday Nath Roy* v. *Akhil Chandra Roy* (1929) 49 C.L.J. 357.

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other members of the governing body on their own behalf and on behalf of all the other members of the society under the provisions of Order 1, Rule 8 of the Civil Procedure Code.(7a) It would not be competent to the secretary or the other members of the governing body of the society to sue or be sued alone in respect of a matter in which the society is interested even though authority in that behalf has been conferred on them by all the members of the society.(7b) Thus where the treasurer of a society misappropriates its funds, no one member can sue alone to recover the amount misappropriated, though he may be authorised to do so by a resolution of the society. The suit must be brought in the names of all the members of the society, or where there are numerous members, by any one member duly authorised, on his own behalf and on behalf of all other members under Order 1, Rule 8 of the Civil Procedure Code.(7c)

Where a suit for partition of property belonging to an unregistered society was filed and only the manager was sued, and the other members of the society were neither served with notices nor impleaded or represented in Court, it was held on appeal that the Judgment of the lower Court ordering a partition of the property was not binding on the other members not duly served or impleaded or represented.(8)

Where the object of a society is to help the cause of education from the income and interest arising out of the trust fund, the society has to be registered under the Act in order to enable it to acquire a juridical status. In the absence of such registration, all the trustees in charge of the fund have alone a legal status. Therefore, if a promissory note has been executed in favour of such society, no suit to enforce it can be filed on behalf of the society, as the society has not a juridical status.(9)

(7a) *The Muhammadan Association of Meerut* v. *Bakshi Ram* I.L.R. 6 All. 284.

(7b) *Ibid.*

(7c) *Mahomed* v. *Husen* (1898) 22 Bom. 729.

(8) *Ram Sarup* v. *The Arya Samaj, Dhampur* A.I.R. 1925 All. 337, 47 All. 342, 23 A.L.J. 37, 86 I.C. 255.

(9) *Jamboodas* v. *Chawre Jain Boarding* A.I.R. 1934 Nagpur 207, 31 N.L.R. 15, 151 I.C. 893.

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As the legal position of an unregistered society is similar to that of a club or other association it would seem that a secretary of such a society cannot, unless he has expressly accepted a personal liability, he sued personally on a contract entered into by him on behalf of the society, nor can the members of the society be sued collectively through the secretary.(9a)

A gift of immovable property to an unregistered society is void inasmuch as such a society has no legal existence and is incapable of holding property.(10)

Suits not to abate.

7. No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceedings shall be continued in the name of or against the successor of such person.

English Act. This Section is word for word the same as S. 22 of the corresponding English Act. See Appendix VIII.

Scope of the Section. The death or retirement from office of a plaintiff or defendant does not cause the abatement or discontinuance of civil proceedings brought by or against a society. The proceedings are continued in the name of or against the successor of such person.

Provisions construed as not mandatory. The provisions of this Section read along with the provisions of Ss. 6 and 8 would go to show that a society registered under the Act, would not be able to sue or be sued in its registered name, but could do so only in the name of the president, chairman or principal secretary or the trustees thereof or some other person or officer nominated to be the defendant by the society. The Bombay High Court

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(9a) *North W. P. Club* v. *Sadullah* (1898) 20 All. 497; See also Code of Civil Procedure by D. F. Mulla 12th ed. p. 508.

(10) *Mathura Kuer* v. *Dharam Samaj* A.I.R. 1917 All. 94, 14 All. L.J. 1038, 38 I.C. 183.

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however, in *Satyavart Sidhantalankar* v. *Arya Samaj*(11) has held that these provisions in Ss. 6, 7 and 8 are not mandatory. They show a mode in which suits could be filed, by or against a society, and are not inconsistent with the user of the registered name of the society in connection with legal proceedings.

Enforcement of judgment against Society.

8. If a judgment shall be recovered against the person or officer named on behalf of the society, such judgment shall not be put in force against the property, movable or immovable, or against the body of such person or officer, but against the property of the society.

The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the society only, and shall require to have the judgment enforced against the property of the society.

English Act. This Section is based on S. 23 of the corresponding English Act. See Appendix VIII.

Scope of the Section. Judgments recovered against the nominees of a society are enforceable against the property of the society, and not against the properties or bodies of their nominees.

Provisions construed as not mandatory. The Bombay High Court in *Satyavart Sidhantalankar* v. *Arya Samaj*(12) has held that the provisions of this Section, and of Ss. 6 and 7 are not mandatory. They show a mode in which suits could be filed, by or against a society, and are not inconsistent with the user of the registered name of the society in connection with legal proceedings.

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(11) 48 Bom. L.R. 341, A.I.R. 1946 Bom. 516, 229 I.C. 84.

(12) *Ibid.*

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Execution. Judgment recovered against the person or officer named on behalf of the society can be enforced only against the property of the society and not against the body or property of such person or officer. A decree obtained against a society can thus be executed only by the attachment and sale of the property of the society, in accordance with the provisions in the Code of Civil Procedure. As to the provisions in the Code of Civil Procedure relating to attachment and sale of property see Ss. 60 to 74 and Order 21 rules 41 to 103 of the Code.

Recovery of penalty accruing under bye-law.

9. Whenever by any bye-law duly made in accordance with the rules and regulations of the society, or if the rules do not provide for the making of bye-laws, by any bye-law made at a general meeting of the members of the society convened for the purpose (for the making of which the concurrent votes of three-fifths of the members present at such meeting shall be necessary), any pecuniary penalty is imposed for the breach of any rule or bye-law of the society, such penalty when accrued, may be recovered in any Court having jurisdiction where the defendant shall reside, or the society shall be situate, as the governing body thereof shall deem expedient.

English Act. This Section is based on S. 24 of the corresponding English Act. See Appendix VIII.

Scope of the Section. A society registered under the Act can frame bye-laws in accordance with the rules and regulations of the society. If the rules of the society do not provide for the making of bye-laws, the society may at a general meeting of the members of the society, convened for the purpose make any bye-laws provided the same are made by the concurrent votes of three-fifths of the members present. Such bye-laws may impose a pecuniary penalty for the breach of any rule or bye-law. Penalties for the breach of rules or bye-laws when accrued, are recoverable at the option of the society, in any local Court of competent jurisdiction where the defendant resides, or the society is situated.

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Bye-laws—validity. Bye-laws made by a society may provide for the better governance of the society, its members or officers, and for the furtherance of its objects and may impose a pecuniary penalty for the breach of any rule or bye-law. In order to be valid a bye-law must be (1) *intra vires* of the authority who makes it, (2) not repugnant to the law of the land, (3) certain in its terms and positive and (4) reasonable.(13) A bye-law is deemed to be reasonable unless it is partial and unequal in its operation between different classes of members, or manifestly unjust, or made in bad faith, or clearly involving an unjustifiable interference with the liberty of those subject to it.(14) If validly made, a bye-law has the force of law within the sphere of its legitimate operation.(15)

Bye-laws made by a society cannot override the provisions of the Act. No rules or bye-laws can obviate or get rid of the effect of a public "Act of Parliament."(16) Once a society is duly registered under the Act, the provisions of the Act will apply and such bye-laws of the society as are inconsistent with the Act will become inoperative.(17) Futhermore, the bye-laws must not be inconsistent with the fundamental objects of the society. A society cannot alter its rules or bye-laws so as to alter the fundamental principles upon which it is founded unless there is such power specially reserved which must be proved.(18)

An association for the uplift of the Madhwa doctrine was started in the year 1878 at Chirutnur in Madras and registered under the Act in the year 1910. The memorandum of association and the rules and regulations of the society gave it power to make bye-laws not inconsistent with the fundamental objects, and to alter or modify them by majority at the annual general meeting.

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(13) Halsbury's Laws of England 2nd Ed. Vol. 26 pp. 604-606.

(14) *Kruse* v. *Johnson* (1898) 2 Q.B. 91.

(15) *Ibid.*

(16) *In re The Bristol Athenæum* (1890) 43 Ch. D. 236, 59 L.J. Ch. 116, 61 L.T. 795, 38 W.R. 396, 6 T.L.R. 83, 1 Meg. 452.

(17) *Radha Swami Satsang Sabha* v. *Tara Chand* A.I.R. 1939 All. 557, 1939 A.L.J. 757, 1939 A.W.R. 436, 184 I.C. 293.

(18) *Prasanna Venkatesa* v. *Srinivasa* A.I.R. 1931 Mad. 12, 53 Mad. 737, 59 M.L.J. 770, 33 M.L.W. 113, 129 I.C. 235.

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The memorandum and rules contemplated an equal treatment of all Madhwas irrespective of their being the disciples of any particular math. The object of the society was to promote the study of Sanskrit and in particular of the Dwaita philosophy of Sri Madhwacharya amongst the Madhwas as a whole. In the year 1912, a resolution was passed by majority declaring that one of the maths was superior in the society to others and giving first "tirtham" to the repesentative of that math. It was held by the Madras High Court that the resolution giving precedence in the matter of "tirtham" to the representative of one of the maths being a fundamental alteration of the principles on which the society was founded and not a matter of mere internal management was *ultra vires* the society.

Penalty for breach of bye-laws. In order to be recoverable in a court of law, the penalty imposed by a society must have been imposed in the manner prescribed by the Act and not otherwise. In other words, it must have been imposed for the breach of a bye-law duly made in accordance with the rules and regulations of the society or if the rules do not provide for the making of such bye-laws, by any bye-law made at a general meeting by the concurrent votes of three-fifths of the members present. Therefore a society cannot impose a penalty under rules framed by it before it was registered under the Act. The fact that a copy of such rules, framed before it was registered under the Act, was after such registration lodged with the Registrar of Joint-stock Companies under S. 18 of the Act does not invest them with any special legal force.(19)

Members liable to be sued as strangers.

10. Any member who may be in arrear of a subscription which, according to the rules of the society he is bound to pay, or who shall possess himself of or detain any property of the society in a manner or for a time contrary to such rules, or shall injure or destroy any property of the society, may be sued for such arrear or for the damage, accruing from such deten-

(19) *Zardozi Union* v. *Bashir Khan* A.I.R. 1925 Oudh 107, 80 I.C. 556.

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tion, injury or destruction of property in the manner hereinbefore provided.

Recovery by successful defendant of costs adjudged.

But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought or from the society and in the latter case shall have process against the property of the said society in the manner above described.

English Act. This Section follows very closely S. 25 of the corresponding English Act. See Appendix VIII.

Scope of the Section. A member may be sued by the society (1) if his subscription is in arrear, (2) for possessing himself of or detaining property belonging to the society contrary to the rules, and (3) for injuring or destroying property belonging to the society. If the action against the member so sued fails, and he is adjudged his costs, he may elect to recover them from the officer in whose name the suit was brought or from the society. In the latter case, the member is entitled to have process against the property of the society. As to the manner of enforcing a judgment against the property of the society, see S. 8.

If his subscription is in arrear. An action will not lie, as a general rule, to compel payment of the entrance fee or initial subscription to the society because the contract to become a member is generally not complete until those sums have been paid. But when all the conditions imposed by the rules and regulations of the society have been complied with and the candidate has become a member, he may be sued by the society for all sums payable by him as a member in accordance with the rules. The liability of a member for subscriptions *prima facie* continues until he has duly ceased to be a member in accordance with the rules, either by

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resignation or expulsion, after which he is liable only for subscriptions accrued due while he was a member.(20) If by the rules of the society, every member is to be taken as continuing so unless he gives previous notice of his intention to discontinue being a member, he is liable to be sued for his arrears of subscription, unless he can prove that he gave such notice.(21) When the rules of a society provide that subscriptions shall be due on the first day of a specified month, and payable at any time during that month, they are not in arrear until the end of the month.(22)

Members guilty of offences punishable as strangers.

11. Any member of the society who shall steal, purloin or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such society, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the society may be exposed to loss, shall be subject to the same prosecution, and, if convicted, shall be liable to be punished in like manner as any person not a member would be subject and liable to in respect of the like offence.

English Act. This Section is based on S. 26 of the corresponding English Act. See Appendix VIII.

Scope of the Section. A member of the society may be prosecuted for theft and embezzlement of money or property or for wilful and malicious destruction or injury to the property of the society, or for forgery exposing the funds of the society to loss, and if convicted, punished in like manner as any non-member found guilty of a like offence.

See Sections 378 (theft), 425 (mischief) and 463 (forgery) of the Indian Penal Code for the appropriate offences for which under this Section, a member may be prosecuted.

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(20) Halsbury's Laws of England 2nd Ed. Vol. 4 pp. 495, 496.
(21) *Raggett* v. *Bishop* (1826) 2 C. & P. 343 N.P.
(22) See (20) *Supra*, p. 496.

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Societies enabled to alter, extend or abridge their purposes.

12. Whenever it shall appear to the governing body of any society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend or abridge such purpose to or for other purposes within the meaning of this Act or to amalgamate such society either wholly or partially with any other society, such governing body may submit the proposition to the members of the society in a written or printed report and may convene a special meeting for the consideration thereof, according to the regulations of the society ;

but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member of the society ten days previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the members delivered in person or by proxy, and confirmed by the votes of three-fifths of the members present at a second special meeting convened by the governing body at an interval of one month after the former meeting.

Section amended in its application to Bombay. Section 12 is amended in its application to the State of Bombay by the Societies Registration (Bombay Amendment) Act 1948 (Bombay Act LIII of 1948) as follows :—

2. " In Section 12 of the Societies Registration Act, 1860, hereinafter called the said Act, after the words " other society " the words " or whenever the governing body of any society registered under this Act, decides to change the name of the society " shall be inserted."

Section amended in its application to East Punjab. The Section is amended in its application to East Punjab by the Socie-

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ties Registration (East Punjab Amendment) Act, 1949 (East Punjab Act VI of 1949) as follows :—

2. " In Section 12 of the said Act, after the words " other society," the words " or whenever the governing body of any society registered under this Act, decides to change the name of the society " shall be inserted."

Section amended in its application to West Bengal. The Section is amended in its application to West Bengal by The Societies Registration (West Bengal Amendment) Act 1950 (West Bengal Act XVI of 1950) as follows :—

2. " In Section 12 of the said Act, after the words " other society," the words " or whenever the governing body of any society registered under this Act, decides to change the name of the society " shall be inserted."

English Act. This Section follows very closely S. 27 of the corresponding English Act. See Appendix VIII.

Scope of the Section. Where a society has been established for some particular purpose and the governing body thinks that an alteration, extension or abridgment of that purpose, or an amalgamation with any other society is advisable, the proposed modification or amalgamation may be submitted by the governing body to the members in a written or printed report, and a special meeting may be convened to consider it. But no such proposition shall be carried into effect unless (1) the report has been delivered or sent by post to every member ten days before the special meeting, or (2) the proposition has been approved by the votes of three-fifths of the members present at such meeting and has been confirmed in like manner at a second special meeting held one month afterwards.

Alteration of purpose. The alteration can only be for any other purpose or purposes provided for in the preamble and S. 20 of the Act and for no others. Further the alteration can only be effected by following the procedure laid down in the Section. Any alteration effected without following the procedure laid down in the Section would be null and void.

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The general rule is that the majority of a body cannot alter the fundamental principles of the body upon which it is founded unless there is such power specially reserved which must be proved.(23) The present Section, however, gives very wide powers of alteration of the purposes of the societies formed under the Act, provided they include one or more of the purposes mentioned in the preamble and S. 20. In this respect, registered societies differ essentially from companies incorporated under the Indian Companies Act, as the powers of alteration of such companies with regard to the conditions and objects of the memorandum are very much restricted. See Ss. 10 and 12 of the Companies Act.

Delivered in person or by proxy. The rules and regulations of a society generally provide for the mode of holding meetings and rights of voting. Unless the rules otherwise provide, questions arising at a general meeting are to be decided, in the first instance by a show of hands. A vote by show of hands is a rough and ready way of taking the sense of a meeting ; but it is often a very inadequate means for arriving at the wishes of the members of the society. To ascertain these, the rules of the society may provide for the taking of a poll.(24) The right to demand a poll is however a common law right, and according to the common law, any one member may demand a poll.(25) On a poll votes can as a rule only be given by persons present in person or by proxy.

A proxy is a person appointed in the place of another to represent him, or the instrument by which a person is appointed so to act. There is no common law right to vote by proxy.(26) The right of a member of a society to vote by proxy can arise by contract, that is, by express provision in the rules and regulations of the society or by Statute. The Act has expressly conferred the right to vote by proxy, on the members of the society, where a meeting of the society is convened (1) to decide on the alteration, extention or abridgment of the purposes of the society or its amalga-

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(23) *Prasanna Venkatesa* v. *Srinivasa* A.I.R. 1931 Mad. 12, 53 Mad. 737, 59 M.L.J. 770, 53 M.L.W. 113, 129 I.C. 235.

(24) See Palmer's Company Law 19th ed. p. 152.

(25) *Ibid.*

(26) *Harben* v. *Phillips* (1883) 23 Ch. D. 14.

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mation with another society, (S. 12) (2) to decide on the dissolution of the society, (S. 13) (3) to determine upon the dissolution of the society, the kindred society to whom the property of the dissolved society is to be given, (S. 14) (4) To decide on the registration under this Act, of a society registered under Act XLIII of 1850, or of a society established and constituted previously to the passing of this Act but not registered under Act XLIII of 1850. (S. 17)

New Sections—Bombay Act. The following three new Sections, 12A, 12B and 12C have been inserted by the Societies Registration (Bombay Amendment) Act, 1948 (Bombay Act LIII of 1948).

Registration of change of name.

"**12-A.**(1) Where a proposition for change of name has been agreed to and confirmed in the manner prescribed by Section 12, a copy of the proposition so agreed to and confirmed shall be forwarded to the Registrar of Companies for registering the change of name. If the proposed name is identical with that by which any other existing society has been registered, or in the opinion of the Registrar so nearly resembles such name as to be likely to deceive the public or the members of either society, the Registrar shall refuse to register the change of name.

(2) Save as provided in sub-section (1), The Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and issue a certificate of registration altered to meet the circumstances of the case. On the issue of such a certificate, the change of name shall be complete.

(3) The registrar shall charge for any copy of a certificate issued under sub-section (2) a fee of rupee one and all fees so paid shall be accounted for to the Provincial Government.

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Effect of change of name.

12-B. The change in the name of a Society shall not affect any rights or obligations of the society or render defective any legal proceeding by or against the society ; and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

Registration of change of names effected before coming into force of Bom. LIII of 1948.

12-C. If any society registered under this Act has, before the date of the coming into force of the Societies Registration (Bombay Amendment) Act, 1948, intimated to the Registrar of Companies the change of its name and the Registrar has recorded such change, the Registrar may, notwithstanding anything contained in this Act, on an application made by the society in this behalf and on payment of a fee as provided for in sub-section (3) of section 12-A, register the change of such name and issue a certificate to the society under sub-section (2) of the said section 12-A. On the issue of such certificate the change shall be deemed to be complete from the date on which such change was recorded by the Registrar, notwithstanding the fact that the society had not followed the procedure prescribed in sections 12 and 12-A."

Statements of objects and reasons. A society registered under the Societies Registration Act, 1860 (XXI of 1860) has a certain legal entity and can be described as a quasi-corporation. The legal status of such a society is held to be similar to that of a registered trade union. The name in which the society is registered assumes considerable importance since it is in its registered name that it can enjoy the various benefits conferred by the Act. There is no provision for changing the name of a society in the Act of 1860. In the absence of such a provision, a registered society cannot claim any of the benefits of the Act if its registered name is changed. The amendment is intended to remedy the defect in the Act.(1)

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(1) Bombay Government Gazette, 1948, Pt. V, p. 447.

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Comment. The main purpose of this amending Act is to enable Societies which are registered under the Central Act to get their names changed without losing or forfeiting the privileges and the status which they enjoy under the Act.

A Company can change its name and continue to enjoy the status that it enjoyed previously provided the usual formalities attendant on a change in the Articles of Association are gone through. Similarly, a Co-operative Society can change its name provided the usual formalities are gone through. This privilege, however, was not available to a society registered under the Societies Registration Act. Actually, quite a number of Societies registered under the Act had changed their names and had got such changes recorded with the Registrar of Joint-stock Companies who is entrusted with the administration of the Act. However, although the change in the name had been recorded by the Registrar of Companies, it had since been discovered that the societies that changed their names did not enjoy the same status and the legal entity which they possessed when they had their old names under which they were originally registered. It is to enable societies registered under the Central Act to change their names after going again through the usual formalities that this amending Act has been enacted.

Although the Societies Registration Act is a Central Act, the purpose for which this Provincial amending Act is enacted is such as is covered by entry No. 33 in the Provincial Legislative List, 7th Schedule, Government of India Act, 1935 (see now entry No. 32, State List, 7th Schedule, the Constitution of India).

Section 12-A. This Section indicates how the change of name is to be registered. After going through the formalities specified in sub-section (1), Societies can get their names changed and get that change in their names registered in accordance with the procedure laid down in the section. The Registrar has the power to refuse to register the change of name if the proposed name is identical with that of any other registered society, or in the opinion of the Registrar so nearly resembles such name as to be likely to deceive the public or the members of either society. The Court will not interfere with the exercise by the Registrar of his

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discretion unless it can be shown either that he has not exercised any discretion, or that he has exercised it on a wrong principle of law, or that he has been influenced by extraneous considerations which he should not have taken into account.(2) For the form of resolution to change the name of the society, see Appendix VII.

Section 12-B. This Section indicates the effect of the change of name of a society. The legal status of such registered societies remains unaltered, despite the change of name, and no defect will arise because they now function under a name which is different from the old name.

Section 12-C. This Section seeks to ensure that societies which had already changed their names before the passing of this Act, and had got such changes in name recorded by the Registrar of Companies, shall also enjoy the privileges and the status accorded under this Act.

New Sections—Bihar Act. The following two new Sections, 12-A and 12-B have been inserted by the Societies Registration (Bihar Amendment) Act, 1948 (Bihar Act XXX of 1948) :—

Change of name.

"**12-A.** Any number not less than three-fifths of the members of any society registered under section 3 may, subject to the provisions of section 12-B, change its name.

Notice of change of name.

12-B.(1) Notice in writing of every change of name signed by the Secretary and by seven members of the society changing its name shall be sent to the Registrar.

(2) If the proposed name is identical with that by which any other existing society has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the

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(2) Halsbury's Laws of England 2nd Ed. Vol. 5 p. 147; R. V. The Registrar of Companies (1912) 3 K.B. 23, at p. 34.

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members of either society, the Registrar shall refuse to register the change of name.

(3) Save as provided in sub-section (2), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and the change of name shall have effect from the date of such registration."

New Sections—Assam Act. The following three new Sections, 12-A, 12-B and 12-C have been inserted by the Societies Registration (Assam First Amendment) Act, 1948 (Assam Act XIV of 1948) :—

Change of name.

"**12-A.** Any society registered under this Act may, with the consent of not less than two-thirds of the total number of its members by a resolution at a general meeting convened for the purpose and subject to the provisions of section 12-B, change its name.

Notice of change of name.

12-B.(1) Notice in writing of every change of name signed by the secretary and by seven members of the society changing its name, shall be sent to the Registrar.

(2) If the proposed name is identical with that by which any other existing society has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public, the Registrar shall refuse to register the change of name.

(3) Save as provided in sub-section (2), the Registrar shall if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and the change of name shall have effect from the date of such registration.

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12-C. The change in the name of a society registered under this Act shall not affect any rights or obligations of the society or render defective any legal proceeding by or against the society, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name."

Effects of change of name.

New Sections—West Bengal Act. The following three new Sections, 12-A, 12-B and 12-C have been inserted by the Societies Registration (West Bengal Amendment) Act, 1950 (West Bengal Act XVI of 1950) :—

" **12-A.**(1) Where a proposition for change of name has been agreed to and confirmed in the manner prescribed by section 12, a copy of the proposition so agreed to and confirmed shall be forwarded to the Registrar of Joint-stock Companies for registering the change of name. If the proposed name is identical with that by which any other existing society has been registered, or in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either society, the Registrar shall refuse to register the change of name.

Registration of change of name.

(2) Save as provided in sub-section (1), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and issue a certificate of registration altered to meet the circumstances of the case. On the issue of such a certificate the change of name shall be complete.

(3) The Registrar shall charge for any copy of a certificate issued under sub-section (2) a fee of rupee one and all fees so paid shall be accounted for to the State Government.

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12-B. The change in the name of a society shall not affect any rights or obligations of either the members who were admitted prior to the change or of the society or render defective any legal proceeding by or against the society; and any legal proceeding which might have been continued or commenced by or against it by its former name, may be continued or commenced by or against it by its new name.

Effect of change of name.

12-C. If any society registered under this Act has, before the date of the coming into force of the Societies Registration (West Bengal Amendment) Act, 1950, intimated to the Registrar of Joint-stock Companies the change of its name and if the Registrar has recorded such change, the Registrar may, notwithstanding anything contained in this Act, on an application made by the society in this behalf and on payment of a fee as provided for in sub-section (3) of section 12-A, register the change of such name and issue a certificate to the society under sub-section (2) of the said section 12-A. On the issue of such certificate, the change shall be deemed to be complete from the date on which such change was recorded by the Registrar, notwithstanding the fact that the society had not followed the procedure prescribed in sections 12 and 12-A."

Registration of change of names effected in certain cases.

New Sections—East Punjab Act. The following two new Sections, 12-A and 12-B have been inserted by the Societies Regitration (East Punjab Amendment) Act, 1949 (East Punjab Act VI of 1949) :—

" **12-A.**(1) Where a proposition for change of name has been agreed to and confirmed in the manner prescribed by section 12, a copy of the proposition so agreed to and confirmed shall be forwarded to the Registrar of Companies for registering the change of name. If the proposed

Registration of change of name.

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name is identical with that by which any other existing society has been registered or in the opinion of the Registrar so nearly resembles such name as to be likely to deceive the public or the members of either society, the Registrar shall refuse to register the change of name.

(2) Save as provided in sub-section (1), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and issue a certificate of registration altered to meet the circumstances of the case. On the issue of such a certificate, the change of name shall be complete.

(3) The Registrar shall charge for any copy of a certificate issued under sub-section (2) a fee of rupee one and all fees so paid shall be accounted for to the [State] Government.

Amendment. The word within the square brackets was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Effect of change of name.

12-B. The change in the name of a society shall not affect any rights or obligations of the society or render defective any legal proceeding by or against the society; and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name."

Provision for dissolution of societies and adjustment of their affairs.

13. Any number not less than three-fifths of the members of any society may determine that it shall be dissolved, and thereupon, it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the society,

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its claims and liabilities, according to the rules of the said society, applicable thereto, if any, and if not, then as the governing body shall find expedient, provided that, in the event of any dispute arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of the society is situate ; and the Court shall make such order in the matter as it shall deem requisite ;

Assent required.

Provided that no society shall be dissolved unless three-fifths of the members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general meeting convened for the purpose :

Govt. Consent.

Provided that [whenever any Government] is a member of, or a contributor to, or otherwise interested in, any society registered under this Act, such society shall not be dissolved [without the consent of the Government of the State of Registration].

Amendment. The words within the first square brackets were substituted for " whenever the Government " by the Government of India (Adaptation of Indian Laws) Order, 1937. The words within the second square brackets were substituted for " without the consent of Government "—*Ibid.* read with Adaptation of Laws Order, 1950.

Section amended in its application to Assam. Section 13 is amended in its application to the State of Assam by the Societies Registration (Assam Second Amendment) Act,1948 (Assam Act XV of 1948) as follows :—

2. " (1) In section 13 of the said Act,

(*a*) after the words " as the Governing body " the words " or special committee formed to replace

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the governing body in respect of all matters affecting the winding up of the affairs of the society "; shall be inserted.

(*b*) After the words " the said governing body," the words " should it not have been replaced by the aforesaid special committee in respect of all matters affecting the winding up of the society, or the said special committee," shall be inserted.

(2) After Section 13 of the Act, the following proviso shall be inserted as the first proviso, namely :

" Provided that any matter decided by three-fifths of those present either in person or by proxy at any meeting of the members of the society or of the governing body thereof or of any special committee appointed at a General Meeting for the purpose of winding up of the affairs of a society shall not be deemed to be a matter of dispute within the meaning of this Section."

English Section. This Section is based on S. 29 of the corresponding English Act. See Appendix VIII.

Scope of the Section. Three-fifths or any larger number of members may determine that a society shall be dissolved, either immediately or at the time then agreed upon. In such event, all necessary steps must be taken for the disposal and settlement of the property of the society, its claims and liabilities, according to the rules of the society, or if the rules are inapplicable, then at the discretion of the governing body. In the event of a dispute arising among the governing body or members, the adjustment of the affairs of the society is to be referred to the principal Court of original civil jurisdiction of the district where the principal building of the society is situated. The Judge after hearing the parties to the dispute shall make the requisite orders. No society shall be dissolved, unless three-fifths of the members have expressed a wish for such dissolution by their votes, delivered in person or by proxy, at a general meeting convened for the purpose. If a Government is a member of, or a contributor to, or otherwise interested

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in the society, it must not be dissolved without the consent of the Government.

Provisions of the Section binding. A society cannot by its rules and regulations contract itself out of the powers of dissolution given by statute.(3)

Reference to arbitration. As the section clearly provides that in the event of any dispute, the adjustment of the affairs of a society must be referred to the principal Court of original civil jurisdiction of the district in which the principal building of the society is situated, a reference to arbitration and an award and decree thereon is of no use and is without jurisdiction.(4)

Delivered in person, or by proxy. There is no common law to vote by proxy.(5) By this section a statutory right to vote by proxy has been conferred on the members of the society where a meeting of the society is convened to decide on the dissolution of the society. (See notes to section 12 *ante* at page 47).

No winding up under Companies Act. As a society registered under the Act does not carry on any business, it cannot be wound up as an unregistered Company under the Indian Companies Act—See Ss. 270 to 276 of the Companies Act.

Upon a dissolution no member to receive profit. Clause not to apply to Joint-stock Companies.

14. If upon the dissolution of any society registered under this Act there shall remain after the satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed among the members of the said society or any of them, but shall be given to some other society, to be determined by the votes of not less than three-fifths of the members present personally or by proxy at the time of the dis-

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(3) *Walker* v. *London Tramways Co.* (1879) 12 Ch.D. 705.

(4) *Sheikh Md. Abdul Quadir* v. *Anjuman Monia* (1946) A.M.L.J. 27.

(5) *Harben* v. *Phillips* (1883) 23 Ch.D. 14.

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solution, or, in default thereof, by such Court as aforesaid ; Provided, however, that this clause shall not apply to any society which shall have been founded or established by the contributions of shareholders in the nature of a Joint-stock Company.

Section amended in its application to Bombay. Section 14 is amended in its application to the State of Bombay by the Societies Registration (Amendment) Act, 1912 (Bombay Act II of 1912) as follows :—

1. " Notwithstanding anything contained in Section 14 of the Societies Registration Act, 1860, hereinafter called " the said Act," it shall be lawful for the members of any society dissolved under Section 13 of the said Act, to determine by a majority of the votes of the members present personally or by proxy at the time of dissolution of such society that any property whatsoever remaining after the satisfaction of all its debts and liabilities shall be given to Government to be utilised for any of the purposes referred to in Section 1 of the said Act."

Comment. Section 14 of the main Act lays down that the property of a society registered under the Act must, when the society is dissolved, be given to some other society. The Government of Bombay could not be legally considered to be a " Society " capable of taking over the property of a society within the meaning of this section. The amendment makes it legal for a society when dissolving, to transfer all its property to Government, if it so desires. The Government is bound to utilise such property, for the same purpose for which any society registered under the Act could have used it, that is to say, any of the purposes mentioned in Section 1 of the Act.

Bombay Act II of 1912 applied to Ajmer and Delhi. The Societies Registration (Amendment) Act, 1912 (Bombay Act II of 1912) is extended to the State of Ajmer (see Gazette of India, 18-11-1950, Part II—Sec. 3, p. 977), and to the State of Delhi (See Gazette of India 4-2-1950, Part I, p. 166).

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Section amended in its application to Assam. This Section is amended in its application to Assam by the Societies Registration (Assam Second Amendment) Act, 1948 (Assam Act XV of 1948) as follows :—

3. " In Section 14 of the said Act, after the words " some other society," the words " whether registered under this Act or not," shall be inserted."

English Act. This Section follows closely S. 30 of the corresponding English Act. See Appendix VIII.

Scope of the Section. Upon the dissolution of the society, the property remaining after all debts and liabilities have been satisfied, is not divisible among the members. It must be given to some kindred society, chosen by three-fifths or any larger number of members of the dissolving society, or in default, by the principal Court of original civil jurisdiction of the district where the chief building of the society is situated.

Property to be given to some other Society. The section authorises the application of the cy-près doctrine to a registered society. The property of a registered society, which has been dissolved under the provisions of S. 13, remaining after the satisfaction of all debts and liabilities, will be applied on the principle of cy-près for the purposes of another society with similar objects.

Present personally or by proxy. There is no common law right to vote by proxy.(6) By this section a statutory right to vote by proxy is conferred on the members of the society where a meeting of the society is convened to determine, upon the dissolution of the society, the kindred society to whom the property of the dissolved society is to be given (see notes to S. 12 *ante* at page 47).

Proviso—clause not to apply to society in the nature of a joint-stock company. Where a literary or scientific institu-

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(6) *Harben* v. *Phillips* (1883) 23 Ch.D. 14.

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tion not established for the purpose of gain, is dissolved by its members, the property ought to be given to some kindred institution to be determined in manner prescribed in the Act, even if the rules contain a provision that the property of the society on its dissolution, is to be divided among its shareholders, such a provision being contrary to the Act. Therefore, where the rules of a society contained a provision that when the society is dissolved, its property shall be divided, not among those who contributed, but among the shareholders only, it was held that this was distinctly contrary to the Act of Parliament, and no rules could obviate or get rid of the effect of the Act of Parliament. Such an institution is not a Joint-stock Company although some of its members may be shareholders and does not, therefore, come within the proviso of the Section (S. 30 of the English Act corresponding to S. 14 of the Indian Act) which excepts from the operation of the Section, any society " which shall have been founded or established by the contributions of shareholders in the nature of a joint-stock company."(7)

The proviso is not that the clause " shall not apply to any society which shall be a joint-stock company " but " shall not apply to any society which shall have been founded or established by the contributions of shareholders in the nature of a joint-stock company." That appears to mean that such a society is not to be actually in all respects a joint-stock company, but to be such as, without being a joint-stock company, should in some respects, partake of the nature of such a company. The elements of a joint-stock company more particularly contemplated by the Section are: (1) the existence of a joint-stock or common property; (2) the contributions of members as the source of such property; and (3) the holding of that property by numerous persons in transferable shares.(8) Therefore a society falling within the general scope of the Act, may be a society in the nature of a joint-stock company within the exception in this Section (see S. 30 of the English Act corresponding to this Section) although not formed for

(7) *Re* Bristol Athenæum (1889) 43 Ch.D. 236, 59 L.J.Ch. 116, 61 L.T. 795, 38 W.R. 396, 6 T.L.R. 83, 1 Meg. 452.

(8) *Re Jones, Clegg* v. *Ellison* (1898) 2 Ch. 83, 67 L.J. Ch. 504, 78 L.T. 639, 46 W.R. 577, 14 T.L.R. 412.

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purposes of profit, if it has the other usual indicia of a joint-stock company, as for example, if it has common property derived from the contributions of its members, and held by them in transferable shares.(9)

A horticultural society was constituted in 1844 under a deed which provided that any person who paid a certain fixed sum to the funds of the society should be a member and entitled to one share in the society, which was to be transferable by him or his legal personal representatives, and that each member should pay a fixed annual subscription and should be entitled to admission for himself and family to the gardens of the society, but should not be entitled to any dividend or bonus, nor to any interest in the property of the society, except the right to participate in the profits on a dissolution. It was held that the society, came within the exception in S. 30 of the English Act (corresponding to S. 14 of the present Act) and that upon dissolution, the property of the society became distributable among the members.(10)

A literary and scientific institution, founded and established by the issue of transferable and transmissible shares, entitling their holders to the property of the institution, in proportion to the number of their shares, but bearing no dividend, is an institution "founded or established by the contributions of shareholders in the nature of a joint-stock company" so as to escape the operation of S. 30 of the English Act (which corresponds to S. 14 of this act) which forbids a distribution of the property among the members on a dissolution.(11)

Member defined. Disqualified members.

15. For the purposes of this Act a member of a society shall be a person who, having been admitted therein according to the rules and regulations thereof, shall have paid a subscription or shall have signed the roll

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(9) *Re Jones, Clegg* v. *Ellison* (1898) 2 Ch. 83, 67 L.J. Ch. 504, 78 L.T. 639, 46 W.R. 577, 14 T.L.R. 412.

(10) *Ibid.*

(11) *Re Russell Institution, Figgins* v. *Baghino* (1898) 2 Ch. 72, reported more fully 67 L.J. Ch. 411, 78 L.T. 588, 14 T.L.R. 406, 42 Sol. Jo. 508.

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or list of members thereof, and shall not have resigned in accordance with such rules and regulations; but in all proceedings under this Act, no person shall be entitled to vote or to be counted as a member whose subscription at the time shall have been in arrear for a period exceeding three months.

English Act. This Section is based on S. 31 of the corresponding English Act. See Appendix VIII.

Scope of the Section. For the purposes of the Act, a member of a society is a person who (1) has been admitted according to the rules of the society, (2) has paid a subscription or has signed the roll or list of members and (3) has not resigned according to such rules. No member is entitled to vote or to be counted a member in any proceedings under the Act if his current subscription is for the time being in arrear for a period exceeding three months.

Admission of members. The manner and terms of admission of members of a registered society are provided for in the rules and regulations. There is no limitation of the maximum number of members unless it is fixed by rules.

Termination of membership. The right of a member to terminate his membership of the society must be ascertained according to the provisions in the rules. If there is no provision on this matter, it would seem that a member can resign his membership at any time, and if desirous of doing so, must communicate to the secretary his intention to resign.(12) The resignation does not require any acceptance by the society, and therefore cannot in the absence of a bye-law to the contrary, be withdrawn or revoked after it has been received.(13) On the receipt by a society of his letter of resignation, a member at once ceases to be a member and cannot become a member again without re-election.(14)

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(12) Halsbury's Laws of England 2nd Ed. Vol. 15 p. 344; *Ibid.* Vol. 4 p. 491; *Finch* v. *Oake* (1896) 1 Ch. 409.

(13) *Ibid*; *Lambert* v. *Addison* (1882) 46 L.T. 20.

(14) *Finch* v. *Oake* (1896) 1 Ch. 409.

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Cessation of membership by non-payment of subscriptions. The rules and regulations of a society generally provide that if subscriptions are in arrears for a stated period, membership shall cease. This section further provides that a member whose current subscription is in arrear for a period of over three months, shall not be entitled to vote or to be counted as a member in any proceedings under the Act.

An action will not lie, as a general rule, to compel payment of the entrance fee or initial subscription to society, because the contract to become a member is generally not complete until those sums have been paid. But when all the conditions imposed by the rules have been complied with, and the candidate has become a member, he may be sued by the society for all sums payable by him as a member in accordance with the rules.(15) The liability of a member for subscriptions *prima facie* continues until he has duly ceased to be a member, in accordance with the rules, either by resignation or expulsion after which he is liable only for subscriptions accrued due while he was a member.(16)

Where the rules provide that subscriptions shall be due on the first day of a specified month, and payable at any time during that month, they are not in arrear until the end of the month, and members are entitled to vote and exercise all the other rights of membership during the month, whether they have paid the current subscriptions or not, even if it is provided by the rules that no member shall be qualified to vote until his subscription for the current year has been paid.(17)

Expulsion of a member. If the rules of the society give the governing body or some other authority power to expel a member for some act of disobedience or misconduct on his part, it is competent to a society to expel a member whose conduct is injurious to the interests of the society.

A power of expulsion in order to be valid must satisfy the following conditions: (1) It must be exercised in strict conformity

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(15) Halsbury's Laws of England 2nd Ed. Vol. IV p. 495.

(16) *Ibid*; *Raggett* v. *Bishop* (1826) 2 C. & P. 343.

(17) See (15) *Supra*, p. 496.

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with the rules by which it is given, otherwise the purported expulsion will be inoperative ; (2) It must be exercised in good faith for the benefit of the society and not from any indirect or improper motive ; (3) The principles of natural justice must be observed. The member expelled must have due notice and full opportunity of answering the charges made against him ; (4) The committee or other body must act with reasonable and probable cause. The decision arrived at must not be manifestly absurd.(18) Where the above conditions are satisfied, the Court has no jurisdiction to interfere, even though it considers that the committee or members voting for the expulsion have in fact come to a wrong conclusion. The burden of proving want of good faith lies on the person who alleges that he has been wrongfully expelled.(19)

Meeting of a Society—quorum. A quorum is the fixed number of members of any body or society whose presence is necessary for the proper or valid transaction of business.(20) If the rules and regulations of a society prescribe a quorum, no less number can do business and in considering whether the requisite number of persons is present only those members must be included who are competent to take part in the particular business before the meeting. Further, unless specially provided, persons represented by a proxy cannot be counted as present in forming a quorum.(21)

In order to determine the quorum for a meeting of the society, it is necessary to find out who were the persons eligible to attend the meeting, and it is improper to take into consideration the names of the persons who are on the roll but who have not paid their subscription or are in arrears for over three months.(22) A requisition to convene a meeting of the society which is otherwise valid, is not rendered invalid merely because it is signed by

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(18) Halsbury's Laws of England 2nd Ed. Vol. IV pp. 492, 493.

(19) *Ibid* pp. 493, 494 ; *Ambalal Sarabhai* v. *Phiroz Antia* 40 Bom. L.R. 1213, A.I.R. 1939 Bom. 35, 180 I.C. 685.

(20) Crew on Procedure at Meetings 17th ed. p. 39.

(21) *Ibid.*

(22) *A. S. Krishnan* v. *M. Sundaram* A.I.R. 1941 Bom. 312, 43 Bom. L.R. 562, I.L.R. 1941 Bom. 497, 197 I.C. 308.

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persons who are on the roll, but who are not entitled to vote by reason of the fact that their subscriptions are in arrears for over three months.(23) The question whether the election of persons whose subscription has been in arrears for over three months, to the managing committee of a society, is valid or invalid is not free from doubt.(24)

Where a committee or other body is empowered to act by a certain number of its members, as a quorum, it is well established that, in the absence of any rule to the contrary, there is no quorum, and the proceedings of the meeting are invalid, unless notice of the meeting is given to all the members of that committee or other body—a " quorum " in fact means a given number of individuals out of the whole body, all of whom have had notice of the meeting, who have attended the meeting.(25)

Governing body defined.

16. The governing body of the society shall be the governors, council, directors, committee, trustees or other body to whom by the rules and regulations of the society the management of its affairs is entrusted.

English Act. This section is based on S. 32 of the corresponding English Act. See Appendix VIII.

Scope of the Section. The council, directors, committee, trustees or other body to whom by the rules and regulations of the society the management of its affairs is entrusted constitute the governing body of the society.

Management of its affairs. The management of the affairs of a society is generally entrusted to a governing council or any other body elected in accordance with provisions in the rules. The extent of the powers of the governing council depends on the rules. In the absence of a rule providing that a certain number

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(23) *A. S. Krishnan* v. *M. Sundaram* A.I.R. 1941 Bom. 312 ; 43 Bom. L.R. 562, I.L.R. 1941 Bom. 497, 197 I.C. 308.

(24) *Ibid.*

(25) *George Bell* v. *The Royal Western India Turf Club* 47 Bom. L.R. 916, A.I.R. 1946 Bom. 88, 224 I.C. 232.

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shall form a quorum, all the members of the council must join in the exercise of any powers conferred on them.(26)

The rules and regulations may provide for the appointment by the governing body of sub-committees for specified purposes, and may authorise the governing body to delegate their powers to such sub-committees.

Trustees. The rules and regulations of a society provide for the appointment of trustees in whom the property and assets of the society are vested in trust for the members for the time being, and who are given power to invest the funds of the society sometimes at their own discretion, and sometimes according to the directions of the governing body. If the rules and regulations do not provide for the appointment of trustees and the vesting of the property of the society in them, the property shall be deemed to be vested in the governing body of the society. See Section 5, *ante*.

Registration of societies formed before Act. Assent required.

17. Any company or society established for a literary, scientific or charitable purpose, and registered under Act XLIII of 1850, or any such Society established and constituted previously to the passing of this Act but not registered under the said Act XLIII of 1850 may at any time hereafter be registered as a society under this Act; subject to the proviso that no such company or society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the members present personally, or by proxy, at some general meeting convened for that purpose by the governing body.

In the case of a company or society registered under Act XLIII of 1850, the directors shall be deemed to be such governing body.

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(26) Halsbury's Laws of England 2nd Ed. Vol. IV p. 496. *Brown* v. *Andrew* (1849) 18 L.J. Q.B. 153.

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In the case of a society not so registered, if no such body shall have been constituted on the establishment of the society, it shall be competent for the members thereof, upon due notice, to create for itself a governing body to act for the society thenceforth.

Comment. This Section provides for the registration of societies established and registered under Act XLIII of 1850, or established before the passing of this Act but not registered under Act XLIII of 1850. In order to obtain registration under the Act, such a society requires the assent of three-fifths of its members.

It should be noted that a company registered under the Indian Companies Act of 1866, 1882, and 1913 is not entitled to register itself as a charitable society under S. 17 of this Act.

Act XLIII of 1850. This Act was repealed by the Indian Companies Act 1866 (X of 1866) S. 219. See now the Indian Companies Act, 1913 (VII of 1913).

Present personally or by proxy. There is no Common Law right to vote by proxy.(1) By this section a statutory right to vote by proxy has been conferred on the members of the society where a meeting of the society is convened to decide on the registration under this Act of a society registered under Act XLIII of 1850, or of a society established and constituted previously to the passing of this Act but not registered under Act XLIII of 1850. (See notes to S. 12 *ante* at page 47)

Such societies to file memorandum, etc., with Registrar of Joint-stock Companies.

18. In order to any such society as is mentioned in the last preceding section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint-stock Companies [ ] a memorandum showing the name of the society, the objects of the society, and the names, addresses and occupations of the governing

(1) *Harben* v. *Phillips* (1883) 23 Ch.D. 14.

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body, together with a copy of the rules and regulations of the society certified as provided in section 2, and a copy of the report of the proceedings of the general meeting at which the registration was resolved on.

Repeal. The words and figures " under Act XIX of 1857 " within the square brackets, were repealed by the Repealing Act (XVI of 1874).

Rules made before registration have no force. A society cannot impose a penalty under rules framed by it before it was registered under the Act. The fact that a copy of such rules, framed before it was registered under the Act, was after such registration, lodged with the Registrar of Joint-stock Companies under this section, does not invest them with any special legal force.(2)

Registrar of Joint-stock Companies. Section 288 of the Indian Companies Act, 1913, provides that in Sections 1 and 18 of the present Act, the words " Registrar of Joint-stock Companies " shall be construed to mean the Registrar under the Indian Companies Act, 1913.

Inspection of documents. Certified copies.

19. Any person may inspect all documents filed with the registrar under this Act on payment of a fee of one rupee for each inspection, and any person may require a copy or extract of any document or any part of any document, to be certified by the registrar, on payment of two annas for every hundred words of such copy or extract ; and such certified copy shall be *prima facie* evidence of the matters therein contained in all legal proceedings whatever.

Scope of the Section. The memorandum of association and the rules and regulations of a registered society are open for

(2) *Zardozi Union* v. *Bashir Khan* A.I.R. 1925 Oudh 107, 80 I.C. 556.

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inspection to the public, on payment of a rupee for each inspection. A certified copy or extract of the memorandum and rules may be obtained by any person on payment. Such certified copy shall be *prima facie* evidence of the matters therein contained in all legal proceedings.

Presumption of due registration. The presumption that a society is duly registered under the Act, arises, not on the certificate of registration granted by the Registrar under S. 3 but on the copies of the Rules and Regulations and Memorandum of Association certified under S. 19 which constitutes them *prima facie* evidence of the matters therein contained.(3) In this respect a registered society differs from a company incorporated under the Indian Companies Act for in the case of such a company, the presumption of due registration arises on the certificate of incorporation granted by the Registrar under the Companies Act. See S. 24 of the Companies Act.

To what societies Act applies.

20. The following societies may be registered under this Act :—charitable societies, the military orphan funds or societies established at the several presidencies of India, societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge, [the diffusion of political education], the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public, or public museums and galleries of painting and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.

Amendment. The words within the square brackets were inserted by S. 2 of the Societies Registration (Amendment) Act (XXII of 1927).

English Act. This section is analogous to S. 33 of the corresponding English Act. See Appendix VIII.

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(3) *Sunder Singh* v. *Sunder Singh* A.I.R. 1938 P.C. 73 ; 40 Bom. L.R. 724, I.L.R. 1938 Lah. 63, 65 I.A. 106.

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Comment. The title of the Act mentions only literary, scientific and charitable societies. The preamble adds further, the fine arts, the diffusion of useful knowledge and the diffusion of political education. The present section amplifies by way of greater caution the purposes set out in the preamble.

It should be noted that only societies the whole of whose objects are substantially within the scope of the Act can be registered under it. Therefore, if any of the objects of a society fall outside S. 20, they must be deleted before the society can be registered. If the applicants for registration refuse to delete them, registration will be refused.

Societies within the Act. The Act is not merely confined to societies of a public or charitable nature, but extends also to private societies established for the purposes of the Act.(4)

It is submitted that the following types of societies are within the scope of S. 20 and therefore can be registered under the Act.

(1) A society for the promotion of physical culture. Physical culture has been recognised as an essential part of education, the development of the body being regarded as important as the development of the mind and both being regarded as complementary.(5)

(2) A society for promoting the economic amelioration of the village artisans through village and home industries.

(3) A society for the purpose of imparting religious training.

(4) A society of ratepayers whose object is to impart useful knowledge to the Municipality and the Controlling Authority. It is to the interests of the municipality to know when the ratepayers are oppressed in order that it may remedy their grievances if possible.

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(4) *In re Russel Institution, Figgins* v. *Baghino* (1898) 2 Ch. 72, reported more fully 67 L.J. Ch. 411, 78 L.T. 588, 14 T.L.R. 406, 42 Sol. Jo. 508.

(5) *In re Mariette, Mariette* v. *Governing Body of Aldenham School* (1915) 2 Ch. 284 ; *In re Gray, Todd* v. *Taylor* (1925) 1 Ch. 362.

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(4a) Societies for the promulgation of particular doctrines or principles not subversive of morality or otherwise pernicious and not in furtherance of the principles of a particular political party. Thus societies for the promotion of socialism, kindness to animals or temperance would be within the scope of the Act.(5a)

(4b) Societies for providing education to special classes of persons, such as, women and girls who are not self-supporting, or persons professing particular religious doctrines. Such a purpose has been held to be charitable.(5b)

(5) In view of the decision of the Bombay High Court in *Jamshed K. Tarachand* v. *Soonabai*,(6) societies for the performance of Muktad, Baj, Yajushni, and other like ceremonies of the Parsi Zoroastrians can be registered under the Act. In that case Davar J. held that trusts and bequests of lands or money for the purpose of devoting the income thereof in perpetuity for the performance of Muktad, Baj, Yajushni and other like ceremonies are valid charitable bequests.

(6) Where there is a separate governing body and an independent existence there is no objection to registering a society on the ground that the word "branch, etc." is included in the name.

Societies not within the Act. The Act does not authorise the establishment of societies for recreation or enjoyment (*e.g.* playing cards, billiards etc.) as distinguished from instruction.(7)

It is submitted that the following types of societies are not within the scope of S. 20 and therefore cannot be registered under the Act.

(1) Societies for the purposes of safeguarding the rights and interests of the Parsi, Christian or any other community.

(5a) Halsbury's Laws of England 3rd ed. Vol. 4 p. 231.

(5b) *Ibid* p. 219.

(6) 10 Bom. L.R. 417.

(7) *In re Badger, Mansell* v. *Cobham* (1905) 1 Ch. 568, 74 L.J. Ch. 327 92 L.T. 230, 21 T.L.R. 280.

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(2) Societies formed for such purposes as opposing prohibition or fighting for changes in Municipal franchise.

(3) A society to promote and safeguard the collective and individual interests of the policy-holders of Insurance Companies.

(4) A society whose main object is to promote the economic interests of its members. Even if some of the objects of the society such as the promotion of instruction and the diffusion of useful knowledge are within S. 20, if its main object is to promote the economic interests of its members, the society cannot be registered under the Act.

(5) Societies having such objects as arranging dinner parties and paying funeral or marriage expenses.

(6) A society for the purpose of safeguarding the rights and interests of House-owners.

(7) A society for the purpose of starting a "death-benefit fund."

(8) Societies for the encouragement of a mere sport or game such as cricket, football, fencing, yachting, bicycling, lawn-tennis or any other healthy exercise and recreation primarily calculated to amuse individuals, though such sport may be to some extent beneficial to the community. Such a purpose has been held to be non-charitable.(8)

(9) A society for the attainment of political objects. Such a purpose has been held to be non-charitable.(8a)

(10) Societies for strengthening the bonds of unity between one country and another or societies for promoting closer understanding between the peoples of two countries. Such purposes have been held to be non-charitable.(8b)

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(8) *In re Nottage, Jones* v. *Palmer*, (1895), 2 Ch. 649 ; Halsbury's Laws of England 3rd ed. Vol. 4 p. 242.

(8a) Halsbury's Laws of England 3rd ed. Vol. 4 p. 242.

(8b) *Ibid.*

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(11) A society for the suppression and abolition of vivisection. Such a purpose has been held to be non-charitable.(8c)

(12) A society for providing education to children of employees or former employees of a limited company. Such a purpose has been held to be non-charitable.(8d)

New Sections—Bihar Act. The following two new Sections, Ss. 21 and 22, have been inserted by the Societies Registration (Bihar Amendment) Act, 1950 (Bihar Act IV of 1951).

"**21.**(1) If the President, Secretary or any person authorized in this behalf by a resolution of the governing body of the society fails to comply with the provisions of section 4, he shall be punished with fine which may extend to five hundred rupees and to a further fine not exceeding fifty rupees for each day during which the default is continued after conviction for such offence.

Penalty for non-compliance of Section 4 or making a false entry.

(2) If any person wilfully makes or causes to be made any false entry in, or any omission from, the list required by section 4, or in or from any statement or copy of rules or of alterations in rules sent to the Registrar under section 4-A, he shall be punished with fine which may extend to two thousand rupees.

22. No Court inferior to that of a Magistrate of the first class shall try any offence under this Act."

Trial of offences.

New Sections—Assam Act. The following two new sections, Ss. 21 and 22, have been inserted by the Societies Registra-

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(8c) National Anti-vivisection Society v. I.R.C. (1948) A.C. 31, (1947) 2 All. E.R. 217.

(8d) *Oppenheim* v. *Tobacco Securities Trusts Co., Ltd.* (1951) A.C. 297, (1951) 1 All. E.R. 31.

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tion (Assam Third Amendment) Act, 1952 (Assam Act XI of 1952).

Penalties.

"21.(1) If the President, Secretary or any other person authorised in this behalf by a resolution of the governing body of the society fails to comply with the provisions of section 4, he shall, on conviction, be punishable with fine which may extend to five hundred rupees and in case of a continuing breach, shall also be punishable with fine not exceeding fifty rupees for each day, during the period the breach continues after first conviction for such offence.

(2) If any person wilfully makes or causes to be made any false entry in, or any omission from, the list required by section 4, or in or from any statement or copy of rules or of alterations in rules sent to the Registrar of Joint-stock Companies under section 4-A, he shall, on conviction, be punishable with fine which may extend to two thousand rupees.

Procedure.

22.(1) No Court inferior to that of a Magistrate of the First Class shall try an offence punishable under this Act.

(2) No Court shall take cognizance of an offence punishable under this Act except upon complaint made by the Registrar of Joint-stock Companies or any other person, authorised in writing by him, in this behalf."

Comment. Section 4 of the Act does not provide any penalty for failure to comply with its provisions. As a result proceedings in respect of a default by the society in filing the annual list can scarcely be successful. This serious lacuna in the Act is rectified by the States of Assam, Bihar and also East Punjab. (For East Punjab amendments see pages 28 and 76)

Section 21 of the Bihar and Assam Acts provides penalities for failure to comply with the provisions of S. 4 and/or for wilfully

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making a false entry in the list required by S. 4. In the Indian Companies Act, 1913, and in the Indian Trade Unions Act, 1926, strict provisions are made for the submission of returns of the Company and the Trade Union respectively and penalities are provided for failure to submit such returns. The Bihar, Assam and the East Punjab Acts have rectified the omission to provide penalty in the main Act and brought the law in conformity with the provisions of similar other Acts.

New Section—East Punjab Act. The following new Section, S. 21, has been added by The Societies Registration (East Punjab Amendment) Act, 1949 (East Punjab Act VI of 1949).

Cognizance of offences.

"**21.** No Court inferior to that of a Magistrate of the first class shall try any offence under this Act, nor shall cognizance of any such offence be taken except on a complaint in writing by the Registrar or any person authorised by him in writing in this behalf."

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APPENDIX I

MODEL MEMORANDUM OF ASSOCIATION OF AN EDUCATION SOCIETY

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1. The name of the Society shall be "———————— EDUCATION SOCIETY."

2. The office of the Society shall be situated at ———— in————.

3. The objects for which the Society is established are :—

(*a*) To take over the assets, properties and engagements of the present unregistered Institution known as "———— Education Society."

(*b*) To provide, establish, endow, maintain, control and manage Schools and other Educational Institutions and to do all acts and things necessary for or conducive to the promotion of Schools of the Montessori and Kindergarten types, Primary, Secondary, Higher, Commercial, Technical and Industrial Education at —— and elsewhere and for this purpose, to start, establish, conduct, maintain and manage Reading Rooms, Libraries, Laboratories, Gymnasiums, Workshops, Publishing Houses, Hostels, Residential Quarters, and the like.

(*c*) To facilitate and spread education by starting, affiliating, establishing and maintaining or assisting in establishing and maintaining at —— or elsewhere Schools, Colleges and Academies, for

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imparting Primary, Secondary and Higher, Industrial or other education with a view to train up ideal citizens.

(*d*) For any of the purposes aforesaid, to procure the assistance of qualified Instructors, Teachers, Professors, Artists, Medical Practitioners and lay-workers, both voluntary or otherwise.

(*e*) To start and conduct Magazines, Periodicals and Newspapers and issue pamphlets to carry on educational propaganda and further the aims and objects of the Society by means of lectures and various other means.

(*f*) To solicit, obtain or accept subscriptions, donations, grants, gifts, devises, bequests and trusts from any person, firm, corporation or institution.

(*g*) To acquire by gift, purchase, exchange, lease, on hire or otherwise howsoever any lands, buildings, easements, rights of common, play-grounds, parks and any property movable and/or immovable and for any estate or interest for the furtherance of all or any of the objects of the Society.

(*h*) To build, construct and maintain houses or other buildings and alter, extend, improve, repair, enlarge or modify the same including any existing buildings and to provide and equip the same with light, water, drainage, furniture, fittings, instruments, apparatus and appliances and all other necessaries for the use to which each building is to be put up or held.

(*i*) To construct or otherwise acquire, lay out, repair extend, alter, enlarge, improve and use any land, recreation or pleasure-grounds, parks and/or any other immovable property belonging to or held by the Society.

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(*j*) To accept and receive in any manner whatever any cash or immovable or movable property either unconditionally or subject to any special trusts created by any particular donor in furtherance of any one or more of the objects of the Society.

(*k*) To take such steps by personal or written appeals exhibitions, public meetings, entertainments or otherwise as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Society in the shape of donations, legacies, annual payments or otherwise.

(*l*) To print, publish and exhibit any books, pamphlets or posters that may be considered desirable for the promotion of the objects of the Society.

(*m*) To sell, manage, transfer, exchange, mortgage, demise, dispose of or otherwise deal with any property whatever belonging to the Society.

(*n*) To give pensions, gratuities or charitable aid to the teachers, staff and other employees or ex-employees of the Society or to their wives, children or other relatives or dependents; to make payments towards insurance and to form and contribute to Provident and Benefit Funds for the benefit of any persons employed by the Society or of the wives, children or other relatives or dependents of such persons.

(*o*) To borrow and raise moneys with or without security or on the security of a Mortgage, Charge, or Hypothecation or Pledge over all or any of the immovable or movable properties belonging to the Society or in any other manner whatever.

(*p*) To give loans, scholarships, freeships, prizes and monetary assistance to students of the Society's Institutions to help them in their studies.

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(*q*) To pay out of the funds belonging to the Society or out of any particular part of such funds all expenses of or incidental to the formation of the Society and management and administration of any of the foregoing objects including all rents, rates, taxes, outgoings and the salaries of the employees.

(*r*) To invest and deal with any moneys of the Society not immediately required for any of its objects in such manner as may be provided by the Constitution of the Society and as may from time to time be determined.

(*s*) To draw, make, accept, endorse and discount Cheques, Notes or other negotiable instruments.

(*t*) For the purposes aforesaid, to sign, execute and deliver such assurances and deeds as may be necessary.

(*u*) To amalgamate with any other Society, Institution or Association having objects wholly or in part similar to the objects of the Society.

(*v*) To do all such other lawful acts, deeds or things as are incidental or conducive to the attainment of any of the above objects.

4. The management of the affairs of the Society is entrusted in accordance with the Rules and Regulations of the Society to a Governing Council of which the first members are :—

(*Insert the name of the person, his occupation and address*)

1. } President & Trustee.

2. } Vice-President & Trustee.

3. } Vice-President.

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(*Insert the name of the person, his occupation and address*)

4. } Vice-President.

5. } Treasurer.

6. } Secretary.

7. }

8. } Trustees.

9. }

10. }

11. }

12. } Members.

13. }

14. }

The above Governing Council shall remain in Office for three years from the date of incorporation of the Society.

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We, the several persons, whose names and addresses are hereunder subscribed are desirous of being formed into a Society in pursuance of this Memorandum of Association :—

	Name	Signature	Address
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			

Attestation :—(Sd.)_____,Bombay.

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APPENDIX II

MODEL RULES AND REGULATIONS OF AN EDUCATION SOCIETY

INTERPRETATION

1. In the interpretation of these articles unless there is something inconsistent with the subject or context :—

"The Society" means "———— Education Society."

Words importing the "masculine" Gender and "singular" Number shall respectively include the "feminine" Gender and "plural" Number and *vice versa*.

"Trustees" shall mean and include the Trustees elected by the Society and the Trustee or Trustees nominated by any Donor or his heirs, executors or administrators and accepted by the Society and the survivors or survivor of them or other the Trustees or Trustee for the time being.

"Trust Funds" shall mean and include all investments funds and properties movable and immovable belonging to the Society and vested in the Trustees whether held on the general trusts or any special trusts created by any donors or testators.

"Year" means the period commencing from the 1st of January and ending with the 31st of December.

"Persons" shall mean and include Individuals, Firms, Joint Hindu Families, Societies, Clubs, Associations, Corporations and Incorporated Bodies.

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"Office-Bearers" shall mean and include the President, Vice-President, Hon. Secretary and Hon. Treasurer for the time being of the Society.

MEMBERSHIP

2. There shall be the following classes of members of the Society :—

(*a*) Patrons,

(*b*) Life-members,

(*c*) Ordinary Members,

(*d*) Honorary Members.

PATRONS

3. Every person who shall pay to the Society a subscription of Rs. 500/- or more either in one sum or by twelve monthly instalments within one year shall be a Patron of the Society.

A Patron shall be a Member of the Society for his life.

A person agreeing to pay Rs. 500/- by the aforesaid instalments shall be a member only for the period during which he continues to pay the said monthly instalments. On completion of payment by him of the sum of Rs. 500/- he shall become a Member of the Society for life.

LIFE-MEMBERS

4. Every person who shall pay to the Society a subscription of Rs. 100/- or more either in one sum or by twelve monthly instalments within one year shall be a Life-Member of the Society.

A person agreeing to pay Rs. 100/- by the aforesaid instalments shall be a member of the Society only for the period during which he continues to pay the said monthly instalments. On

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completion of payment by him of the sum of Rs. 100/- he shall become a Life-Member of the Society.

Any Life-Member may on payment to the Society of an additional sum of Rs. 400/- or more either in one sum or by twleve monthly instalments within one year become a Patron of the Society.

5. If at the end of three months next after the full period fixed for payment of the monthly instalments referred to in Rules Nos. 3 and 4 above the full amount of the subscription due from any member shall not have been paid to the Society, the Governing Council shall be entitled to forfeit the amount of all the instalments received by the Society. Provided However that on reasonable cause being shown to the satisfaction of the Governing Council and on immediate payment of the balance of the amount due from the member in default, the Governing Council may decide not to forfeit the said instalments.

ORDINARY MEMBERS

6. Every person who shall pay a subscription of Re. 1/- per month or Rs. 12/- per annum shall be an ordinary member.

An Ordinary Member shall be a member only for the period covered by his subscription.

An Ordinary Member shall cease to be a member of the Society if he fails to pay his subscription for three months without any reasonable cause. Such a Member may be re-admitted on a fresh application and on payment by him of all arrears.

HONORARY MEMBERS

7. The Governing Council may enrol any person or persons as Honorary members for such period as the Governing Council may think fit. Such members may attend at a General Meeting but shall have no right to vote at any General Meeting.

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8. Persons who are or have agreed to be Patrons, Life-Members and Ordinary Members of the unregistered Institution known as the ———— Education Society shall be and are hereby enrolled as the Patrons, Life-Members and Ordinary Members respectively of ths Society on terms that such members shall pay to this Society the balance, if any, of their subscriptions which they agreed to pay to the said unregistered Society, and by the instalments agreed upon between them and such Society ; and in case of default in payment of any such instalment the Governing Council may resolve that such member in default shall cease to be a member either forthwith or on such date as the Resolution of the Governing Council in that behalf may specify and such member shall thereupon cease to be a member of this Society accordingly.

Note.—Where any Patron or Life Member shall be a Company, Club, Association, Joint Family, Partnership firm or Trustees, such Company, Club, Association, Joint Family, and Partnership firm or Trustees shall appoint in writing any person as their nominee to represent and vote for them.

9. A minor may become a member of the Society through his guardian but neither he nor his guardian shall have a right to attend and vote at any meeting of the Society. The minor on his completing the age of eighteen years will be entitled to all rights and privileges hereunder.

10. A person desirous of joining the Society shall apply in writing on a prescribed form. The application shall be forwarded to the Governing Council who shall be entitled to reject any application without assigning any reason for such rejection.

TRUSTEES

11. The number of the trustees shall not be less than three and more than five.

Such Trustees shall be the Trustees of the Society for life.

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12. The first Trustees of the Society shall be :—

Name	Occupation	Address
1.		
2.		
3.		
4.		
5.		

13. Subject to the conditions of any special trusts created by any donor and accepted by the Society which provide for the nomination by such donor of a person to be selected by him as an *Ex-Officio* trustee of the Society, all other trustees of the Society shall be elected by the Society at a General Meeting.

14. The Trustees shall hold the trust funds and all income arising therefrom upon trust to pay and apply the same for the objects and purposes of the Society, subject nevertheless, to the conditions and stipulations, if any, governing any part thereof.

15. The Trustees shall invest the capital and income of the Trust Funds which require investment in such investments whether authorised by the Indian Trust Act II of 1882 for the investment of Trust Funds or not as the Governing Council may from time to time direct and may at the like direction vary or transpose such investments or place the same on deposit in any Bank or realise any of such investments and obtain payment of any moneys so deposited as aforesaid. Provided however, that no investment not authorised by the Indian Trust Act for the investment of Trust Funds shall be made unless the Trustees for the time being consent thereto. Provided further, that such consent shall not be necessary in case of deposits in Banks approved by the Governing Council.

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16. Any Receipt or Receipts signed by any three of the Trustees for any amount exceeding Rs. 500/- shall be a sufficient discharge to any person making any payment to the Trustees.

17. The Trustees shall collect and receive the income of the Trust Funds.

18. All investments of the Trust Funds including Deposit Receipts and all Deeds and Documents of title relating to any of the properties of the Society shall be kept for safe custody with the Trustees or with a Bank approved by the Governing Council.

19. Subject to the conditions, if any, governing any part of the Trust Funds the Trustees shall deal with and dispose of all properties of the Society, whether movable or immovable, for the time being vested in them and the income thereof in accordance with the directions of the Governing Council evidenced by a resolution over the signatures of the President and the Secretary but not otherwise.

20. Any securities and Banking Accounts belonging to the Society may be operated upon by any three of the Trustees.

21. Subject to the sanction of the Governing Council evidenced by a Resolution thereof all documents whether relating to any immovable or movable property whether made over to the Society or belonging to the Society including Agreements, Conveyances, Mortgages, Deeds of Gifts, or Trust or Leases shall be in the names of and be executed by the Trustees.

22. Subject to any special stipulations or conditions governing any part of the Trust Funds, the Trustees shall, out of the Trust Funds make to the Governing Council or Treasurer or any other person such payments as the Governing Council may from time to time direct.

23. The Trustees shall be respectively chargeable only for such properties, money, funds, securities or any other property as

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they shall respectively actually receive notwithstanding their signing any receipt for the sake of conformity and shall be answerable and accountable only for their own acts and defaults and not for those of any other Trustees or of any other Banker, Broker, Auctioneer, Agent or person with whom or into whose hands the Trust moneys or securities may be desposited or may come, nor for the insufficiency or deficiency of any funds or securities nor for any other loss unless the same shall happen through their own dishonesty or wilful default respectively.

24. The Trustees shall be entitled to reimburse themselves or pay and discharge out of the Trust Funds all expenses incurred and payment made by them in or about the execution of the Trusts or powers in relation thereto.

25. No person shall be elected a Trustee who is not a Patron or Life-Member of the Society.

26. A trustee shall vacate his office and cease to act as Trustee if he ceases to be a member of the Society or becomes bankrupt or of unsound mind or dies or remains out of British India for more than twelve successive months without the permission of the Governing Council or is convicted of an offence involving moral turpitude by any criminal court or desires to be discharged from the Trusts or who refuses to act as Trustee or is otherwise unfit or is incapable of acting as a Trustee.

27. A Trustee desiring to be discharged from his office as the Trustee of the Society may do so on giving two calendar months' notice in writing to the Society, through the Secretary and on the acceptance of such resignation, and not before, his office shall be vacant.

28. The Trustees shall whenever required by the Governing Council place before the Governing Council a statement showing the properties of the Society and income received and outgoings payable in respect of each of them respectively.

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29. No Trustee shall delegate any of his duties or powers either to his co-trustees or to any other person except with the leave and direction of the Governing Council.

30. Vacancies among the Trustees shall be filled up in an ordinary or extraordinary meeting with all convenient despatch in accordance with the rules in that behalf and upon every such appointment the outgoing and the continuing or surviving Trustees shall execute all such deeds and do all such acts as may be necessary for the purpose of vesting the trust funds for the time being vested in them in the new trustees along with the continuing and surviving trustees, if any.

31. The Trustees shall in all respects be subject to the superintendence, direction and control of the Governing Council and shall conform to the directions and orders from time to time issued by the Governing Council and shall deal with and dispose of the funds for the time being vested in them as the Governing Council may from time to time direct, subject to any stipulations and conditions governing any part of the Trust Funds.

32. The provisions of these rules and regulations in so far as they are applicable to the general trustees and the trusts thereof shall in all respects be applicable to and be binding upon the trustee or trustees nominated by any Donor and/or his heirs executors administrators and accepted by the Society.

GOVERNING COUNCIL

33. The business and affairs of the Society shall be carried on and managed by the Governing Council (hereinafter for sake of brevity referred to as " the Council ") who may pay all expenses incurred in promoting and registering the Society and may exercise all such powers and authorities of the Society as are not by any Statute or by these Rules and Regulations specifically required to be exercised by the Society in General Meeting, subject nevertheless to any provisions of these rules and regulations and to the provisions of any Statute and to such regulations being not in-

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consistent with the aforesaid regulations or provisions as may be prescribed by the Society in General Meeting; but no regulation made by the Society in General Meeting shall invalidate any prior act of the Council which would have been valid if such regulation had not been made.

34. The Governing Council shall be constituted of :—

(*a*) The Trustees for the time being who shall be *Ex-Officio* members.

(*b*) 8 Members from amongst the Patrons and Life-Members to be elected at the Ordinary General Meeting by Patrons and Life Members entitled to vote thereat.

(*c*) 2 Ordinary members to be elected at the Ordinary General Meeting by the Ordinary Members entitled to vote thereat.

35. The ten Elected Members aforesaid and the Trustees shall be at liberty to co-opt from amongst the members of the Society two members to be members of the Governing Council and such members shall, on such co-optation be members of the Governing Council.

36. The Council so constituted as aforesaid, shall elect from amongst themselves one President, three Vice-Presidents, one or more Hony. Secretary or Secretaries and one Hony. Treasurer.

37. The first Governing Council shall consist of the following members :—

1.	President and Trustee.
2.	Vice-President and Trustee.

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3.	Vice-President.
4.	Vice-President.
5.	Treasurer.
6.	Secretary.
7.	Trustee.
8.	Trustee.
9.	Trustee.
10.	Members.
11.	
12.	
13.	
14.	

This Council shall remain in office for a period of three years after the date of the registration of the Society and until the new election takes place at the prescribed time.

38. Members of the Council shall remain in Office for a period of three years and till the new Council is constituted.

39. The Trustees for the time being, shall be *Ex-Officio* members of the Council.

40. No person shall become or remain a member of the Council, who holds any paid office, in connection with the Society.

41. Any retiring member of the Council shall be eligible for re-election.

42. Casual vacancies on the Council may be filled up by the Council.

43. Any person elected by the Council to fill a casual vacancy on the Council shall hold office only while the person in whose place he is elected would have held office.

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44. No member of the Council shall vote on any matter in which he is personally interested pecuniarily or otherwise.

45. The Council shall have full power and authority to do all acts, matters, things and deeds which may be necessary or expedient for the purpose of the Society and (without in any manner derogating from the generality of their powers under these Rules and Regulations or any other Rules and Regulations or otherwise) in particular, the following :—

(*a*) To look after, manage and supervise the management of the Institutions and properties of the Society and to expend moneys required for that purpose ;

(*b*) To prepare and submit to the Annual General Meeting an audited Statement of Account and Report of the previous year ;

(*c*) To pay all rates, rents, taxes and salaries and remunerations of the employees of the Society ;

(*d*) To fix, collect, increase or decrease the rents of any of the properties belonging to the Society ;

(*e*) To fix the scale of fees in respect of any of the classes in the Society's Institution and to provide for the manner in which the same is to be received ;

(*f*) To direct the Trustees to invest the trust funds of the Society in the hereinabove authorised investments and to sell, vary or transpose such investments from time to time ;

(*g*) To manage and deal with all matters appertaining to the Provident Fund or any other Schemes for the benefit of the teachers, employees or ex-employees of the Society ;

(*h*) To fix curriculum or curricula of the Institutions of the Society ;

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(*i*) To fill in vacancies, to make appointments, to direct transfers, retirements and to give promotions, increments, honorariums and to grant leave and extension of services and reduce salaries and to award punishment or to dispense with the service of an employee under the Society and to do such other general work in connection with the staff of the Society as may be necessary ;

(*j*) To make necessary arrangements for and in respect of tournaments, gatherings, sports and socials ;

(*k*) To carry out the necessary repairs to any of the properties of the Society ;

(*l*) To fix, award, give and distribute prizes, scholarships and freeships ;

(*m*) To invite and accept donations and subscriptions with or without any conditions ;

(*n*) To appoint any Committee or Sub-Committees as and when necessary and with such powers as the Council may deem fit ;

(*o*) To admit or reject members and accept resignations of members ;

(*p*) To acquire in the name of the Society or in the names of the Trustees by gift, purchase, exchange, lease, on hire or otherwise howsoever any lands, buildings, easements, rights of common or privileges for the purpose of the Society ;

(*q*) To build, construct and maintain houses and buildings and to pull down, alter, extend, improve and repair any existing buildings of the Society ;

(*r*) To construct and lay out and maintain gardens and play-grounds ;

(*s*) To borrow or raise money which may be required for the purpose of the Society upon Bonds, Debentures,

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Promissory Notes or other obligations or securities of the Society or by Mortgage or Charge on the property of the Society subject to the sanction of the general body ;

(*t*) To amalgamate the Society with any Association, Society or Institution having objects altogether or in part similar to those of this Society subject to the sanction of the general body ;

(*u*) To make and from time to time to repeal or alter bye-laws as to the management of the Society and the affairs thereof and as to the management of its Institutions and as to the duties of any officers, employees or servants of the Society and as to the conduct of the business of the Council or any Committee or Sub-Committee appointed by the Council, or as to any of the matters or things within the powers or under the control of the Council, provided that the same shall not be inconsistent with the Memorandum of Association or the Rules and Regulations of the Society ;

(*v*) To negotiate and enter into contracts on behalf of the Society and to vary and rescind such contracts ;

(*w*) To delegate any of the powers of the Council to any Officer or Sub-Committee or Committee ;

(*x*) To expend the funds of the Society in such manner as the Council shall consider most beneficial for the purposes of the Society ;

(*y*) To do all such acts and things as are incidental or conducive to the attainment of the above powers or any one or more of them and to the objects specified in the Memorandum of Association.

46. The Council may, from time to time, appoint any Committees or Sub-Committees (consisting wholly or partly of members of their own body and/or others) as they may think fit

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and may delegate any of their powers to them and prescribe the functions of and the procedure at any such Committee or Sub-Committee.

Either the President or the Secretary shall always be appointed as a member of every such Committee or Sub-Committee.

47. The Council may meet for the despatch of business, adjourn and otherwise regulate their meetings as they may think fit.

Seven members present in person shall be a quorum.

The Council may at any time and the Secretary shall upon the request in writing of seven members of the Council, summon a meeting of the Council.

Notice of every meeting of the Council stating the general particulars of all business to be transacted at such meeting shall be delivered or sent by post to each member of the Council at his last known address at least three days before the meeting, but the proceedings of any meeting shall not be invalidated by any irregularity in respect of such notice or by the accidental omission to give or non-receipt of any notice by any member or by reason of any business being considered which is not comprised in such general particulars.

48. The Minutes of every meeting of the Council shall be read at the next meeting thereof and shall be confirmed either with or without amendment.

49. The continuing members of the Council may, notwithstanding any vacancy in their body, but if and so long as their number is not reduced below the number fixed by the Rules and Regulations of the Society as the necessary quorum of members of the Council, act for the purpose of increasing the number of the members of the Council to that number or of summoning a general meeting of the Society, but for no other purpose.

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50. All acts done by any meeting of the Council or by a Committee or Sub-Committee appointed by the Council or by any person acting as a member of any Committee or Sub-Committee, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Committee or Sub-Committee or persons acting as aforesaid or that they or any of them were or was disqualified be as valid as if every such person had been duly appointed and was qualified to be a member of any Committee or Sub-Committee.

51. A Resolution unanimously passed by members of the Council present in ———— (*insert the name of the place*) without any meeting of the Council and evidenced under the signatures of all members of the Council present in —— shall be as valid and effective as a Resolution passed at a meeting of such Council duly called and held.

52. Any interpretation by the Governing Council of the Constitution, Rules, Regulations and Bye-laws of the Society for the time being shall be final and binding upon the members.

GENERAL MEETINGS

53. A General meeting of the Society may be ordinary or extraordinary.

The Annual General Meeting of the Society referred to in Rule 54 hereinafter shall be called the Ordinary Geneal Meeting. All other meetings shall be called Extraordinary.

54. The Annual General Meeting will be held once in every year in the month of March at such time and place and hour as the Governing Council shall determine.

55. An Extraordinary General Meeting may be convened by the Governing Council of its own motion or upon a Requisition made in writing either by the President or by all the Trustees or by not less than fifteen members of the Society entitled to vote. Such Requisition shall specify the object of the meeting

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proposed to be called and must be signed by all the requisitionists and shall be delivered at the Office of the Society.

56. On receipt of the requisition, the Governing Council shall forthwith proceed to convene an Extraordinary General Meeting.

If, within a fortnight from the date of delivery of the Requisition, the Governing Council fails to convene an Extraordinary General Meeting, the President or the Requisitionists themselves may convene such meeting within one month from the date of delivery of such Requisition.

57. Fifteen clear days' notice specifying the place, date, hour and nature of the business shall be given to the members by post or hand-delivery, to their respective addresses registered with the Society, of any General Meeting, whether Ordinary or Extraordinary, but the accidental omission to give or non-receipt of such a notice by any member shall not invalidate the proceedings at any General Meeting.

58. Twenty members present in person and entitled to vote, shall form a quorum at any General Meeting. No business shall be transacted at such meeting unless the prescribed quorum is present. If, at an Extraordinary General Meeting, there is no quorum within fifteen minutes from the hour fixed, the meeting shall stand dissolved. If, at an Annual General Meeting, there is no quorum within fifteen minutes from the hour fixed, the meeting shall stand adjourned to a date within ten days to be fixed by the President and to be communicated to the members by three clear days' notice. At such adjourned meeting, if no quorum is present, the members present shall form the quorum, but no business other than that specified in the notice shall be transacted at such meeting.

59. The business of the Annual General Meeting shall be :—

(*a*) To receive and to adopt the audited Statement of Accounts and the Annual Report of the Society ;

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(*b*) To elect every three years the requisite number of members of the Governing Council;

(*c*) To fill the vacancies among the Trustees, if any;

(*d*) To appoint an Auditor or Auditors for the ensuing year;

(*e*) To transact such other business which may be brought before the meeting by the Governing Council.

THE PRESIDENT

60. The President of the Society shall preside at, conduct and regulate all meetings of the Society, the Governing Council and any Committee or Sub-Committee of which he may be a member and his rulings on any point of order and decision as to the results of voting shall be final and conclusive. The President shall, in addition to his rights of voting as a member, have a casting vote in case of a tie. In the absence of the President, one of the Vice-Presidents shall preside at all General Meetings and Meetings of the Governing Council and exercise all such powers. In the absence of the President and the Vice-Presidents, the members present shall elect a Chairman for the meeting from among themselves and such Chairman also shall exercise all such powers.

Subject to any subsisting interpretation given by the Governing Council, the Chairman at a General Meeting, shall have the authority to interpret the Constitution and the Rules, Regulations and Bye-laws of the Society for the purpose of conducting and regulating the meeting and deciding the questions arising at such meeting.

THE SECRETARY

61. The Secretary shall look after the affairs of the Society under the direction of the Governing Council and shall convene whenever necessary meetings of the Society and of any Committee

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or Sub-Committee and any other meeting which it may be necessary to be called.

62. The Secretary shall keep or cause to be kept proper Minutes of the proceedings of the General Meetings of the Society and of the Governing Council and he will do everything necessary to give effect to the Resolutions passed by the General Meetings of the Society as also to those passed by the Governing Council and any Committee or Sub-Committee.

63. The Secretary shall supervise the working and management of the Institutions of the Society and carry on all correspondence and keep or cause to be kept proper records and prepare or cause to be prepared and place before the Governing Council and General Meetings of the members of the Society such materials and information as may be necessary or as may be required by the Governing Council.

64. The Secretary shall be at liberty to expend for the purpose of the Society any sum up to Rs. 100/- without the previous sanction of the Governing Council.

65. The Secretary shall keep or cause to be kept all records of the Society at a place to be determined by the Governing Council.

THE TREASURER

66. The Treasurer will act under the directions of the Governing Council.

67. Any amount exceeding Rs. 200/- which is not required for immediate use, shall be paid into such Bank or Banks as may be approved of by the Governing Council.

68. The Treasurer shall ordinarily receive all payments made to the Society and pass all necessary receipts and shall maintain proper Books of Account.

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69. The Banking Account of the Society shall be kept in the name of the Society and shall be operated upon jointly by any two of the following Office-bearers :—

(1) The President ;

(2) A Vice-President ;

(3) The Hon. Treasurer, and

(4) The Hon. Secretary.

DISSOLUTION

70. Any number not less than 3/5ths of the members present at the meeting convened for the purpose, may determine that the Society shall be dissolved, whether forthwith or at any future time then agreed upon.

71. If, on the dissolution of the Society, there shall remain after the satisfaction of its debts and liabilities, any property whatsoever not impressed with any Trusts, agreed between the Society and the Donor or Donors, the same shall not be paid or distributed among the members of the Society or any of them but shall be given to some other Society or Institution working for the same or similar objects as those of the Society, to be determined by the votes of not less than three-fifths of the members present in person and entitled to vote at the meeting convened for the purpose or in default thereof, by the principal Court of Original Civil Jurisdiction of the District in which the Office of the Society is situated.

INDEMNITY

72. Every member of the Governing Council and every other Officer for the time being of the Society, shall be indemnified out of any funds of the Society against all losses and expenses incurred in the discharge of his duties except such as shall happen through his own wilful neglect or dishonesty and each one shall be

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chargeable only for such money, funds or property as he shall himself actually receive in the discharge of his duties unless the same shall happen through his own dishonesty or wilful negligence.

GENERAL

73. No member shall have more than one vote at any of the meetings of the Society, the Governing Council or any Committee or Sub-Committee, except that in the case of equality of votes, as above mentioned in Rule No. 60, the President or Chairman shall have a casting vote.

74. Any member of the Governing Council (except a Trustee) shall be deemed to have vacated office, if he shall have absented himself without previous intimation in writing from three consecutive meetings of the Council extending over a period of three months, but he shall be eligible for reinstatement by the Governing Council.

75. An elected or co-opted member of the Governing Council shall be deemed to have vacated office if he :—

(*a*) is adjudicated or adjudged Insolvent ;

(*b*) is convicted by a Court of criminal offence involving moral turpitude ;

(*c*) becomes of unsound mind or physically unfit or unable to act as such ;

(*d*) resigns, retires or ceases to be a member of the Society.

76. Any member of the Society acting in contravention of the objects of the Society or in any manner detrimental to the interests of the Society or guilty of misconduct shall be liable for expulsion on the votes of two-thirds of the members present in person and entitled to vote at an Extraordinary meeting convened for the purpose. No such meeting shall be called unless

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such member shall have been previously given an opportunity of tendering his explanation or resignation and he shall not have explained his conduct to the satisfaction of the Governing Council or tendered his resignation. No appeal shall lie against such decision. A person thus expelled shall not be eligible for re-admission.

77. No resolution passed at any meeting of the Society or of the Governing Council shall be altered or cancelled for a period of three months except with the support of three-fourths of the members present in person and entitled to vote at the meeting convened for the purpose.

78. Any additions, alterations or omissions in the Rules and Regulations of the Society shall be effected by a Resolution of the Society by two-thirds of the members present in person and entitled to vote at a General Meeting of the Society duly convened. So for as concerns the alterations, extensions or abridgements in the purposes of the Society, the provisions of Section 12 of the Societies Registration Act, shall apply.

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APPENDIX III

Form of Certificate of Rules and Regulations

Note :—This Certificate is to be made at the foot of the Rules and Regulations of the Society by at least three members of the governing body—See para 2 of S. 2 of the Act.

Certified to be a true and correct copy of the Rules and Regulations of the ———————— (*insert the name of the Society*)

1.

2.

3.

Members of the Governing Body.

Dated this of 19 .

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APPENDIX IV

Certificate of Registration
(See S. 3)

(COPY)

CERTIFICATE OF REGISTRATION OF SOCIETIES
Act XXI of 1860

No. of 19 -19

I HEREBY CERTIFY that ..... Society has this day been registered under the Societies Registration Act XXI of 1860.

Given under my hand at Bombay this —— day of ——— One thousand nine hundred and ———.

The Seal of the Registrar of Companies, Bombay.

(Sd.)————————————
Registrar of Companies.

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APPENDIX V

OBJECT CLAUSES

Common Forms of Clauses

Note :—Several of these clauses are in the nature of powers and may, if so desired, be inserted in the Rules and Regulations of the Society instead of being set out in the Memorandum of Association.

To take over property of an unregistered body.

1. To take over the assets, properties and engagements of the present unregistered Institution known as "_____".

To accept subscriptions, gifts etc.

2. To solicit, obtain or accept subscriptions, donations, grants, gifts, devices, bequests, and trusts from any person, firm, company, corporation or institution.

To acquire property.

3. To acquire by gift, purchase, exchange, lease, on hire or otherwise howsoever any lands, buildings, easements, rights of common, play-grounds, parks and any property movable and/or immovable and for any estate or interest for the furtherance of all or any of the objects of the Society.

To construct buildings.

4. To build, construct and maintain houses or other buildings and alter, extend, improve, repair, enlarge or modify the same including any existing buildings and to provide and equip the same with light, water, drainage, furniture, fittings, instruments, apparatus and appliances and all other necessaries for the use to which each building is to be put or held.

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5. To construct or otherwise acquire, lay out, repair, extend, alter, enlarge, improve and use any land, recreation or pleasure-grounds, parks and/or any other immovable property belonging to or held by the Society.

To accept property.

6. To accept and receive in any manner whatever any cash or immovable or movable property either unconditionally or subject to any special trusts created by any particular donor in furtherance of any one or more of the objects of the Society.

To procure contributions.

7. To take such steps by personal or written appeals, exhibitions, public meetings, entertainments or otherwise howsoever as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Society in the shape of donations, legacies, annual payments or otherwise.

To print pamphlets etc.

8. To print, publish and exhibit any books, pamphlets, pictures or posters that may be considered desirable for the promotion of the objects of the Society.

To deal with property.

9. To sell, manage, transfer, exchange, mortgage, charge, lease, dispose of or otherwise deal with any property whatever belonging to the Society.

10. To give pensions, gratuities or charitable aid to the staff and other employees or ex-employees of the Society or to their wives, children or other relatives or dependents ; to make payments towards their insurance and to establish and contribute to Provident and Life Insurance or any other Fund or scheme for the benefit of any persons employed by the Society or of the wives, children or other relatives or dependants of such persons.

To borrow.

11. To borrow and raise moneys with or without any security or on the security of a Mortgage, Charge, or Hypothecation or Pledge over all or any of the properties, movable or immovable, belonging to the Society or by any other means whatever and on such terms as the Society may deem fit.

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12. To give loans, scholarships, freeships, prizes and monetary assistance to.....(*insert the approrpiate words, such as students, workers, employees, etc.*) to help them in their studies.

To give Loans and Scholarships.

13. To pay out of the funds belonging to the Society or out of any particular part of such funds all expenses of or incidental to the formation of the Society and its management and administration and the carrying out of any of the objects of the Society including all rents, rates, taxes, outgoings and the salaries of the employees.

14. To invest and deal with any moneys of the Society not immediately required for any of its objects in such manner as may be provided by the Constitution of the Society and as may from time to time be determined.

To invest.

15. To draw, make, accept, endorse and discount Cheques, Notes or other Negotiable Instruments.

To draw cheques etc.

16. For the purposes aforesaid, to sign, execute and deliver all such assurances and deeds and writings as may be necessary and to do and carry out or assist in doing and carrying out all such matters and things as are likely to promote the objects of the Society.

To execute deeds etc.

17. To establish, promote, manage, organise or maintain or to assist in establishing, promoting, managing, organising or maintaining any branch of the Society or any other Society or its branch with objects similar to those of this Society or to promote or carry out the affiliation or amalgamation of such other Society with this Society.

18. To take over, acquire, manage, control, or aid any existing institution or institutions having objects either wholly or in part similar to the objects of this Society and on such terms and conditions as may be thought expedient.

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19. To amalgamate with any other Society, Institution or Association having objects wholly or in part similar to the objects of the Society.

To amalgamate.

20. To purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities, and engagements of any one or more of the Societies, institutions or associations with which this Society is authorised to amalgamate.

To acquire property of other Societies.

21. To transfer all or any part of the property, assets, liabilities and engagements of this Society to any one or more of the Societies, institutions or associations with which this Society is authorised to amalgamate.

To transfer property.

22. To do all such other lawful acts, deeds or things as are incidental or conducive to the attainment of any of the above objects.

General powers.

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APPENDIX VI

ALPHABETICAL LIST OF OBJECTS FOR SPECIFIC SOCIETIES

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APPENDIX VI

OBJECT CLAUSES OF SPECIFIC SOCIETIES

CHARITABLE HOSPITAL

(1) To provide, establish, endow, furnish and fit out with all necessary furniture, instruments and other equipments, and maintain and manage a Hospital for providing medical and surgical treatment free of charge to poor patients, irrespective of caste, creed, race or religion, suffering from disease or accident and unable otherwise to obtain such accommodation, care, nursing and attention as may be required for their proper treatment, in which they may remain for such period and on such terms and conditions as the Committee of Management may prescribe, or in which they may be advised or treated as out-patients.

(2) To procure the services of qualified surgeons, medical practitioners, nurses, lay-workers, attendants and servants either for remuneration or gratuitously or in any honorary capacity for the purposes aforesaid.

(3) To provide and supply all such medicines and medical, surgical and pharmaceutical preparations, appliances, instruments and things, and all such provisions and necessaries as may be required for the purposes aforesaid or any of them.

(4) To establish, maintain, control and manage in (*insert the name of the place*) or any other place as and when deemed proper or expedient for or in connection with the purposes of the society all or any of the following institutions :—

(*i*) Dispensaries.

(*ii*) Maternity Homes.

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(*iii*) Nursing hospitals, homes or wards.

(*iv*) Medical colleges.

(*v*) Nursing institutes.

(*vi*) Ambulance Departments with or without classes for imparting education and training in ambulance work.

(*vii*) Research Institutes.

(*viii*) Convalescent homes.

(*ix*) Clinics for out-door and in-door relief.

(*x*) Residential quarters for doctors, nurses and staff and students.

(*xi*) Laboratories.

(*xii*) Crèches and children's quarters.

(5) To educate and train medical students and nurses.

(6) To expend the funds of the society in sending patients to and maintaining them in convalescent and other similar institutions in such manner and to such extent as may from time to time be deemed expedient, in paying the expenses or part of the expenses of the trusses, crutches and other mechanical aids for patients and in sending patients to their homes or elsewhere.

LIBRARY

(1) To establish and maintain in (*insert the name of the place*) a general and reference library and reading room (*insert the words "for the use of its members" or "open to the public" as required*) and to furnish the same with books, periodicals, reviews, magazines, newspapers and other publications.

ORPHANAGE

(1) To maintain and educate without any distinction of class, caste, race or creed children of deceased persons and children of persons who from poverty or physical or mental infirmity are unable to provide for their families.

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(2) To provide the children as part of their maintenance with all necessary and proper clothing, board, lodging, education and medicine, and medical and surgical attendance, appliances, nursing and comforts.

(3) To establish, conduct and carry on in (*insert the name of the place*) or elsewhere Homes, Asylums, and Shelters for such children.

(4) To impart to such children as part of their education, religious and moral instruction.

RESCUE HOME FOR WOMEN IN DISTRESS

(1) To provide shelter and render assistance to women in distress without any distinction of class, caste, race or creed.

(2) To establish, conduct and carry on at (*insert the name of the place*) or any other place or places, Rescue Homes, Night Shelters, and other Refuges for poor and distressed women and generally to promote the welfare of poor and destitute women and their children and the relief of their distress by social, educational and spiritual agencies.

(3) To maintain such women and provide them as part of their maintenance with all necessary and proper clothing, board, lodging, education and medical and surgical attendance, appliances and comforts.

(4) To impart to such women as part of their education, religious and moral instruction.

SOCIETY FOR THE PREVENTION AND RELIEF OF BLINDNESS

(1) To disseminate among the public generally by means of lectures, newspaper articles, films, exhibitions, demonstrations and by the publication and distribution of books, pamphlets, handbills and other literature, information regarding the causes, nature, prevention and treatment of eye diseases.

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(2) To establish, maintain, and assist educational, industrial and other institutions and homes for the blind and otherwise to assist and ameliorate the conditions of persons who are blind or of deficient or defective eyesight.

(3) To initiate, promote and advance measures legislative or other for the prevention of eye diseases and blindness and eliminating as far as possible the causes of blindness.

(4) To establish, maintain and assist clinics, dispensaries, hospitals, travelling dispensaries and other institutions for the treatment of eye diseases.

(5) To train up and equip and maintain a staff of workers in blind relief work with a view to their personally carrying on blind relief work or manning, inspecting, advising and otherwise assisting persons or institutions engaged in the same.

(6) To undertake and promote study, research and training in Ophthalmics.

(7) To provide for the delivery and holding of lectures, demonstrations, exhibitions, public meetings, classes and conferences calculated directly or indirectly to advance the cause of education in ophthalmic and eye diseases and matters connected therewith, whether general, professional or technical.

(8) To do, undertake, promote and assist generally any work, scheme or measure calculated to prevent or cure blindness or eye diseases or to ameliorate or improve the conditions of persons suffering from blindness, eye diseases or defective eyesight.

ART SOCIETY

(1) To establish and maintain in—(*insert the name of the place*) or at any other place or places art galleries for the exhibition of paintings, engravings, sculptures, bronzes, enamels, jewellery, gems, coins, medals and other works of art.

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(2) To form a collection of works of art suitable for exhibition in such galleries and to encourage the exhibition in such galleries of loan and other collections of works of art.

(3) To provide and maintain for the use of its members a library and reading-room and to furnish the same with books, magazines and periodicals relating to art.

(4) To hold lectures on subjects connected with art.

(5) To publish an Art Journal.

MUSICAL SOCIETY

(1) To promote the study, practice and knowledge of choral, orchestral, operatic and instrumental music.

(2) To prepare courses for the study of music and to hold regular classes for coaching students in the different branches of music.

(3) To give or arrange concerts, recitals and lectures and such other entertainments and functions as are incidental or conducive to the attainment of the objects of the Society.

PHYSICAL CULTURE AND ATHLETICS

(1) To establish, maintain and conduct in—(*insert the name of the place*) or elsewhere gymnasiums and other physical education or physical culture institutions or centres of all kinds, for imparting therein instruction on proper and scientific lines in physical culture and education by means of various kinds of athletic and outdoor sports and games, exercises, drills and parades.

(2) To promote the physical, moral, social and cultural welfare of its members.

(3) To impart instruction in wrestling, boxing, ju-jutsu and generally in the art of self-defence and to inculcate in the members

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the qualities of leadership, discipline, team-spirit, sportsmanship, co-operation, service and self-sacrifice.

(4) To arrange and hold conferences, demonstrations, exhibitions, meetings, lectures, discussions and competitions and to do all acts and things necessary to promote the health of the community and to encourage healthy living.

ADULT EDUCATION

(1) To stimulate general interest in the education of adults.

(2) To build up opinion as to the importance of adult education.

(3) To carry on activities of the following nature and description :

(*a*) extension courses for educated adults.

(*b*) free popular science courses in English, Marathi and Gujarati for primary teachers and others interested in scientific subjects.

(*c*) free literacy and post-literacy classes for mill-hands, factory workers, manual workers and peons of business houses.

(*d*) providing free reading-rooms and libraries.

(*e*) arranging free public lectures on subjects of general interest.

(4) To survey the situation in adult education in the State and to suggest lines of further advance and new developments.

(5) To bring together and to co-operate with the existing organisations engaged in the promotion of adult education so as to secure co-ordination of effort.

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MATERNITY HOME

(1) To provide medical or surgical treatment or aid to women in gynæc and midwifery cases and to children in—(*insert the name of the place*) and/or any other place or places as in-patients or out-patients and free of charge or on payment of prescribed fees as may be determined from time to time by the Governing Body.

(2) To establish, promote, manage, organise or maintain or to assist in establishing, promoting, managing, organising or maintaining in ..... or any other place as and when deemed proper or expedient for or in connection with the purposes of the Society all or any institutions or organisations or activities of the following descriptions, *viz.* :—

(*i*) Maternity Homes.

(*ii*) Hospitals and Dispensaries for women and children.

(*iii*) Ambulance corps.

(*iv*) Imparting medical education and training in Nursing, Midwifery, First Aid, Ambulance work, Health, Hygiene and similar other work by holding or arranging to hold classes, lectures or in any other form or manner.

(*v*) Research Institutes.

(*vi*) Residential quarters for doctors, nurses, and staff and students.

(*vii*) Residential quarters for the use of the members of the family and other relatives and friends of an in-door patient (not having suitable residential accommodation) at such nominal or other charge or fee for the use thereof and on such terms and conditions as the Governing Body may think fit to make from time to time regulating the admission to and use of such quarters.

(*viii*) Crèches and Children's quarters.

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(3) To construct, purchase, take on lease or hire or otherwise acquire and to alter, repair, and maintain any immovable property or any rights or privileges and also any furniture, fittings, equipment, instruments, appliances, medicines, drugs and movable property of any description necessary or convenient for the purposes of the Society.

(4) To employ or otherwise procure the services of surgeons, doctors, nurses, attendants and other employees and servants and to supply them with all such appliances, equipments and things as may be necessary for the proper and efficient performance of their duties in connection with the purposes of the Society.

(5) To expend the funds of the Society in sending patients to and maintaining them in convalescent and other similar institutions in such manner and to such extent as may from time to time be deemed expedient, in paying the expenses of the trusses, crutches and other mechanical aids for patients and in sending patients to their homes or elsewhere.

PANJRAPOLE OR SHELTER FOR THE ANIMALS

(1) To provide an asylum for old, maimed, sick, dry, disabled and stray animals and birds, more particularly cows and other horned milch cattle.

(2) To establish and maintain cattle-sheds and dispensaries and hospitals for treatment of maimed and diseased animals.

(3) To bring about improvement in the breeding of cattle in India.

(4) To provide food, fodder and otherwise to do acts for preserving, protecting, maintaining and succouring cows and other horned milch cattle.

(5) To give to cultivators, bullocks on such terms as the Managing Committee may decide or in exchange for cows with a view to prevent the slaughter of milch cows.

(6) During famine and times of distress to take measures to preserve, protect, maintain and succour cows and other horned milch cattle.

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(7) To undertake and carry on cultivation on the lands owned by the Society or rented by it, for growing fodder, grain, fruits, vegetables and other produce thereon and to deal with the produce thereof and to form instruction centres for the agriculturist and/or the dairy farmer.

(8) To maintain for the benefit of agriculturists, a seed farm for growing improved varieties of Bajri, irrigated and dry wheats and other crops and to give such seed to agriculturists at suitable rates according to the recommendations of the Agricultural Department or at the discretion of the Trustees.

(9) To purchase or otherwise obtain, keep, feed and maintain cows, buffaloes and other cattle for the purposes of the Panjrapole. To give pure milk, as far as possible free of charge, to poor children below 3 years of age and to supply at a cheap rate milk to poor children between 3 to 12 years of age irrespective of caste, creed or sex, with a view to maintain and improve their health.

(10) To supply milk of cows and buffaloes and milk products to the public on such terms as the Managing Committee may decide and to maintain plant or plants for the preparation and manufacture of milk products and/or a dairy or dairies.

(11) To provide veterinary aid for the treatment of animals suffering from disease or accident and unable to obtain such aid, care and attention as may be required for proper treatment on such terms and conditions as the Managing Committee may prescribe.

(12) To employ Veterinary officers and attendants for the purposes aforesaid and to provide and supply all such medical and surgical and pharmaceutical appliances and things and all such provisions and necessaries as may be required for the purposes aforesaid or any of them.

(13) To start and maintain an institution or otherwise to provide for imparting instruction in cattle breeding and the manufacture and preparation of milk and agricultural products.

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(14) To preserve and maintain horned cattle that may be released by people from butchers, or cattle that are likely to go to butchers on account of the inability of the owners to maintain them, or cattle that are released or abandoned in times of famine.

(15) To keep and preserve animals belonging to persons who shall pay such monthly allowance for their maintenance as may be fixed from time to time by the Managing Committee of the Society.

(16) To give out cattle for preservation on such terms as the Managing Committee shall from time to time prescribe.

GENERAL UPLIFT OF THE BACKWARD CLASSES AND ABORIGINES

(1) To achieve the economic, social, educational and general uplift of—(*insert the name of the community*) in the State of—(*insert the name of the State*) by selfless service (through truthful and non-violent means).

(2) To ameliorate the conditions of—(*insert the name of the community*) and similar communities in the State of—(*insert the name of the State*) and to promote their social and economic welfare and to diffuse useful knowledge among them and among such other similar communities as the Executive Committee may from time to time decide upon, and with a view thereto to start, establish, conduct and maintain Hostels, Welfare Centres, Reading-rooms, Libraries, Dispensaries, Laboratories, Gymnasiums, Ashrams, Workshops, Boarding Houses, Residential Quarters and Schools, Co-operative Stores and Societies, Grain-Banks, Labour Unions, Lecture Halls and the like.

SOCIETY FOR PROMOTING THE WELFARE AND INTERESTS OF ANY PARTICULAR COMMUNITY OR SECTION OF THE COMMUNITY

(1) To promote the religious, moral, intellectual, social, physical, commercial and political interests and welfare of the members of the .....community (*insert the name of the community*).

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(2) To provide for the education of the members of the..... community by establishing, founding, providing for, and maintaining schools, colleges, pathshalas, laboratories, reading-rooms, hostels, boarding houses, gymnasiums, scholarships, stipends etc. and by aiding existing schools, colleges, pathshalas, laboratories, libraries, reading-rooms, hostels, boarding houses and gymnasiums.

(3) To relieve members of the .....community suffering from diseases or on account of poverty or requiring charitable relief by establishing and maintaining orphanages, hospitals, maternity homes, charitable dispensaries, cheap rent dwelling houses, or aiding existing institutions of the kinds abovementioned and helping deserving and needy persons by granting donations, monthly allowances or small loans and helping the needy widows amongst the.....community in every possible manner.

(4) To promote the physical welfare of the members of the..... community by establishing and maintaining sanatoriums or aiding existing institutions of that kind and in every other possible manner.

SOCIAL SERVICE

(1) To work for the social amelioration of the inhabitants of ..... (*insert the name of the place*) by (*a*) relief of poverty, (*b*) advancement of education and (*c*) the pursuit or achievement of all objects and purposes which by law are held or declared to be beneficial to the community ; to render service to society and to create and/or provide opportunities for social service in ..... (*insert the name of the place*).

(2) To render medical aid or relief and for the purpose aforesaid to open, establish, maintain, manage, control and conduct dispensaries, hospitals, nursing homes, maternity homes, sanatoriums and medical and first aid centres etc. at such place or places within the said area as may be decided upon.

(3) Propagation of ideas of sanitation and hygiene by any means whatsoever.

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(4) Prevention, suppression or abolition of all kinds of diseases and epidemics and also of all kinds of social vices including intemperance, prostitution, gambling and all other evils by all legitimate and peaceful means whatsoever.

(5) To provide for, encourage and aid the welfare of children and for such purpose to establish, conduct, manage and aid infant welfare centres, baby weeks and shows, children's homes and nurseries, and to do all other acts and deeds and things, and to take such measures as may be deemed necessary for the welfare, health and recreation of children.

(6) Supportation, aid and education of orphans.

(7) To establish, conduct, manage and aid rescue homes for poor and helpless women and children, houses of correction and institutions for the relief, redemption and education of prisoners.

(8) Spread of education and of all kinds of useful knowledge and of all kinds of sciences by any means whatsoever and eradication of evil customs and habits.

(9) To provide, establish, endow, manage, control and aid schools and educational institutions of all kinds, and in particular to spread literacy, to open adult education classes and night schools.

(10) To provide for and encourage physical education, and for the purposes aforesaid, to open gymnasiums and other physical education or physical culture institutions or centres of all kinds, to hold demonstrations, exhibitions or competitions and to do all acts and things necessary to promote the health of the community and to encourage healthy living.

(11) Supportation, aid and help of poor and deserving handicraftsmen, and the encouragement of handicrafts, agriculture and cottage industries, and the establishment, conduct and management of institutions for training in handicrafts, agriculture and cottage, industries.

(12) To investigate and propagate knowledge of food values and to recommend necessary changes in diet of the people as the fundamental requirement of all progress.

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(13) To spread among people the co-operative movement in the form of co-operative credit societies, co-operative stores, co-operative housing, co-operative insurance etc.

(14) Establishment, conduct, management and aid to public reading-rooms, libraries, museums, recreation centres and parks.

(15) Establishment, conduct and management of institutions for training social and public workers.

(16) Relief against famine, floods, fire and all kinds of distress and calamities.

PREVENTION OF CRUELTY TO ANIMALS

(1) To educate the public by means of lectures, newspaper articles, exhibitions and demonstrations, and by the publication and distribution of books, pamphlets, handbills and other literature, in the duty of being kind and considerate to animals and birds and in the necessity of desisting from all forms of cruelty and violence to them.

(2) To initiate, promote and advance measures legislative or other calculated to encourage kindness, discourage cruelty and stimulate humane sentiments in the care and treatment of animals.

(3) To build up opinion against the continuance of cruel sports, fashions and ceremonies involving violence and injury to animals.

WELFARE OF CHILDREN

(1) To make children as happy as possible and to let them develop by themselves, by supplementing their home and school activities.

(2) The advancement of education of children, the spread of all kinds of useful knowledge among them, and generally to work for the physical, mental and moral welfare of children.

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(3) Relief of orphans and defective children, their rescue from being exploited by beggars, and separating children from their deceased parents, such as lepers, etc. by the establishment, maintenance and conduct of orphanages, children's welfare centres, child guidance clinics, and by all other means possible.

(4) Prevention of cruelty to children, and securing the passage of beneficial legislation for children.

(5) For achieving all or any of the aforesaid objects to do, execute or carry out all or any of the following acts and things, that is to say—

(*a*) To provide entertainment for them in the form of stories, folk-songs, garba-dances, recitations, dramatics, literary pursuits, indoor and outdoor games, picnics, excursions and tours with a view to giving them practical education.

(*b*) To encourage them in having hobbies such as preparing paper-made articles, clay modelling, drawing, painting, spinning, weaving, knitting, sewing, embroidery, fret-work, meccano, carpentry etc. and to interest them in making collections of pictures, photographs, stamps, coins, leaves, feathers, books etc.

(*c*) To promote friendship and brotherhood through their meetings and correspondence and to promote cultural unity amongst all the children of India irrespective of community and religion.

(*d*) To celebrate important days and festivals and to inculcate in children the Hero-spirit and the Swadeshi ideal.

(*e*) To develop in them the habits of nature study, exercise, endurance, hardihood and cheerfulness, and to encourage them to have a living contact with the poorer and less fortunate class of children.

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(*f*) To foster among children the spirit of service, self-help, simplicity and sacrifice.

(*g*) To provide, establish, endow, maintain, control and manage Bal Mandirs, Children's Schools, Open Air Schools, Children's Health Resorts, and other Educational Institutions, and to do all acts and things necessary for or conducive to the promotion of such institutions, and for this purpose, to start, establish, conduct, maintain and manage Reading-rooms, Libraries, Laboratories, Museums, Theatres, Gymnasiums, Workshops, Publishing Houses, Hostels, Residential Quarters and the like.

(*h*) To evoke the interest of elders in children, and to protect and guard the same from being encroached upon and neglected also by the society in general.

(*i*) To run study classes in Psychology, Mother-craft, and allied subjects, with a view to educating parents for the proper upbringing of children, both physically and mentally.

(*j*) To draw up and maintain a Charter of Rights for children, and to agitate, if necessary, for its recognition and enforcement by Governmental or likewise authorities.

(*k*) To carry out all such activities either singly or in co-operation with, or with the help of other institutions concerned with the welfare of children in India and to establish a platform with a view to ventilating the grievances of children and of those in whose care they come to be entrusted voluntarily by parents or through other economic circumstances.

(*l*) To organise a Federation of Children's Organisations working in India on similar lines.

(*m*) To procure the assistance of qualified Instructors, Teachers, Professors, Artists, Medical Practitioners

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and lay workers, both voluntary and otherwise, for any of the purposes aforesaid.

(*n*) To start and conduct Children's Corners, Periodicals and Newspapers, and issue pamphlets to carry on propaganda, to further the aims and objects of the society by means of lectures and various other means and to print, publish and exhibit any books, pamphlets or posters that may be considered desirable for the promotion of the objects of the Society.

LEGAL AID

(1) To undertake, promote and develop legal aid, to encourage the formation of legal aid organisations wherever they may be needed, and to co-operate with the Judiciary, the Bar and all organisations interested in the administration of justice so as to make justice readily accessible to poor persons and persons of limited means and generally to help in reducing the costs of litigation. To render legal aid gratuitously if necessary, to all who may appear worthy thereof and who are unable to procure assistance elsewhere.

(2) To give legal advice and legal assistance in negotiations and litigation after due enquiry, to poor persons without cost to them or at a minimum cost which they can afford, in matters where no other assistance is available.

(3) To provide lawyers to the poor, in cases where lawyers are necessary and to procure proper representation of their case before a Judge, a Magistrate, or other Officer.

(4) To undertake the cases, both Civil and Criminal, of poor persons so as to make justice readily accessible to them.

SOCIETY FOR PROMOTING THE PHYSICAL, MENTAL AND MORAL DEVELOPMENT OF ITS MEMBERS SO AS TO PROMOTE GOOD CITIZENSHIP

(1) Instruction on scientific lines in physical culture and discipline by means of various kinds of athletic and open air sports and pastimes, drills, parades and by any other means.

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(2) Promotion of moral and intellectual development of its members and of an *Esprit de Corps.*

(3) Bringing together persons of various communities and creating and fostering in them feelings of good-will, brotherhood, peace and co-operation.

(4) Fostering and encouraging the spirit of practical benevolence and social service, *inter alia*, by establishing and maintaining an ambulance corps, by conducting First Aid and Home Nursing classes and by other means.

(5) To carry on such other activities as are conducive to the attainment of the objects of the Society and for making its members fit for the duties and responsibilities of citizenship.

A SOCIETY FOR IMPROVING THE LOT OF THE VILLAGE ARTISANS

(1) Through village and home industries, (by hand processing) through the manufacture and distribution of hand-made products and the encouragement and improvement of all processes incidental thereto, to give relief to the poor by providing them with whole time or part time employment.

(2) To secure for the workers engaged in any of such industries, as far as possible, a living wage.

(3) To provide village artisans with insurance and security against unemployment, particularly in times of famine, failure of crops and natural calamities.

(4) Generally and incidentally to provide village artisans with educational, medical and other facilities.

(5) To open, establish or give aid to institutions for giving instruction and carrying on research in processes and implements involved in the manufacture of articles through village and home industries.

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SOCIETY FOR THE DIFFUSION OF POLITICAL EDUCATION

(1) To train national missionaries for the Service of India and to promote by all constitutional means, the true interests of the Indian people.

(2) To create among the people, by example and by precept, a deep and passionate love of the motherland, seeking its highest fulfilment in service and sacrifice.

(3) To organise the work of political education and agitation, basing it on a careful study of public questions, and to strengthen generally the public life of the country.

(4) To promote relations of cordial good-will and co-operation among the different communities.

(5) To assist educational movements, especially those for the education of women, the education of backward classes and industrial and scientific education.

MOTION PICTURE SOCIETY

(1) To promote and advance the Indian film industry in general by (*a*) providing a meeting place for exchange of views of all interested; (*b*) providing a channel or communication with similar or allied associations or societies in other countries; (*c*) arranging suitable technical lectures, demonstrations and excursions on topics pertaining to this and allied industries; (*d*) maintaining a suitable experimental laboratory and library for the benefit of the members in particular and for the general public, if possible; (*e*) investigating problems peculiar to this industry with a view to causing rapid progress; (*f*) conducting an organ for the spread of knowledge regarding the latest information pertaining to the film and allied industries; (*g*) educating the general public in the utility of the film industry from social, industrial and educational points of view.

(2) To protect, safeguard and further the interests of the Indian Film Industry by applications, deputations, petitions

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and memorials to the Government of India or the Local Government or any other Government or Public Body, local or supreme.

(3) To improve the standard and technique and further the progress of the Indian film industry by forming organisations or associations of the producers, distributors, technicians, actors and others interested in or employed in the industry.

NATURAL HISTORY SOCIETY

(1) To promote the knowledge amongst the public of Natural History in all its branches including particularly the study of Animal and Plant Life of the Oriental Regions and the Zoo-geographical Regions adjoining thereto, both active and otherwise.

(2) To carry out researches in all branches of Natural History and to assist with information and advice as well as financially where possible, other institutions and individuals in similar pursuits.

(3) To provide, purchase, construct, equip, maintain and replenish museums or other repositories for animals or plants, living or dead, which are suitable for the study of natural history.

MEDICAL RESEARCH

(1) To promote Medical Research in all its branches including industrial diseases and accidents.

(2) To finance research inquiries, to endow research fellowships, and to give grants for research so as to further the growth of research work in medicine and allied subjects.

AGRI-HORTICULTURAL SOCIETY

(1) To sell, distribute or give on exchange basis fruit-trees, ornamental plants, shrubs, creepers, seeds, bulbs and also manures, fertilizers, tools, agricultural implements and agricultural machinery.

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(2) To advance vegetable cultivation in India.

(3) To acquire, take on lease or otherwise lay out, supervise, maintain and manage or do advisory work in connection with vacant lands, forests, farms or orchards, parks, ornamental gardens whether public or private, in India.

(4) To maintain gardens for the benefit of the members and for the public.

(5) To hold flower, fruit and vegetable shows anywhere in India and to award prizes.

(6) To hold competitions in connection with gardens, farms and orchards and to award prizes.

(7) To set aside areas purely for agricultural experiments which will embrace the testing of imported seeds and bulbs.

(8) To provide means of advancing the cultivation of fruit-trees of known quality.

(9) To provide facilities for the introduction of new varieties of trees, shrubs and creepers.

(10) To propagate and grow various kinds of plants, trees, shrubs and creepers and to raise various varieties of seeds in India.

(11) To make proper arrangements for imparting training in gardening in all its aspects, prescribing courses suitable for varied requirements, such as for malees, garden assistants, superintendents of farms and superintendents of gardens and to award certificates and diplomas.

(12) To provide instruction courses for the control of insects, pests and fungoid diseases which attack vegetation and to help to carry out experimental work in that direction.

(13) To provide facilities for advanced study in Botany, Landscape Gardening, Arboriculture and Silviculture.

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(14) To maintain a library of books on agriculture, horticulture and such other allied subjects and to publish any journal or bulletin dealing with these subjects.

(15) To provide opportunities for members to meet and to hold meetings, lectures, discussions and seminars on matters connected with agriculture, horticulture and such other allied subjects.

SCOUTING

(1) To educate in the widest sense of the word the boys and girls of India, irrespective of race, religion, creed or caste.

(2) To help the young to become brave and good citizens of the motherland, subordinating personal interests to the needs of the country; to foster in them habits of observation, thoughtfulness, self-reliance and obedience; to inculcate in them qualities of leadership, discipline, self-help, team-spirit, loyalty, tolerance, service and self-sacrifice; and to interest them in handicrafts useful to themselves and generally to promote their physical, mental and moral development.

(3) To assist and supplement the work of existing educational institutions.

WORSHIP OF GOD

(1) The worship of God by the spread of and conformity of all actions in life to the following creed and cardinal principles:

(*a*) God is the Creator of this Universe. He is the only true God; there is no other God besides Him. He is eternal, spiritual, infinite, the store of all good, all joy, without parts, without form, one without a second, the ruler of all, all pervading, omniscient, almighty, merciful, all-holy, infinite in love and the saviour of sinners;

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(*b*) His worship alone leads to happiness in this world and the next ;

(*c*) Love and reverence for Him, an exclusive faith in Him, praying and singing to Him spiritually with these feelings and doing the things pleasing to Him, constitute His true worship.

(*d*) All men are His children ; therefore they should behave towards one another as brethren without distinction. This is pleasing to God and constitutes man's duty.

(2) The spread of education and of useful knowledge by the establishment, maintenance and conduct of schools, colleges, academies and by all other lawful means ;

(3) The establishment, maintenance and conduct of orphanages, rescue homes and other institutions of a like nature.

YOGA

(1) For the promotion of the science of Yoga to conduct or to help in conducting, research, especially in the field of Yoga, pure or applied, by establishing or taking over and maintaining and also by helping to establish and maintain academies, laboratories, libraries etc. necessary for the purpose, the research having scientific, cultural or textual value.

(2) To create and maintain or to organise facilities for training individuals or groups of individuals who are or are likely to be useful for the research work of the society as Life Members or as Paid Workers or as Subjects or in general who are likely to promote the cause of yogic research.

(3) To establish or run colleges either independently or affiliated to recognised universities, Indian or foreign, for training recruits to join research service either under the society or elsewhere or to help the spread of scientific yoga in India and abroad.

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(4) To edit or get edited critically, old Sanskrit text-books on Yoga, with notes, translations, illustrations etc. if necessary and publish them. Also similarly to deal with old Sanskrit texts containing valuable information about Yoga, although the text-books as a whole may not exclusively deal with the subject of Yoga.

(5) To publish bulletins containing results of scientific investigations.

(6) To prepare and publish catalogues, digests, indexes and concordances of Yogic books and subjects or of books and subjects allied to Yoga with a view to help critical studies of Yogic texts.

(7) To run Yogic clinics and clinical laboratories, both for indoor and outdoor treatment, with a view to create facilities for clinical research and/or for giving practical training in Yogic Therapy to persons in the educational institutions of the Society.

(8) To depute whenever desirable, Life Members, Associates, Paid Workers, Subjects or any other persons in the employ of the Society to another institution either to help that institution in the spread of scientific Yoga or to obtain for the person deputed a wider field of work promoting the objectives of the Society or to undertake studies that would better qualify the person deputed to discharge his duties to the Society.

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APPENDIX VII

FORM OF RESOLUTION TO CHANGE NAME OF SOCIETY

Note :—The States of Bombay, Assam, Bihar, East Punjab and West Bengal have passed amending Acts so as to provide for a change of name by a Society. See pp. 48 to 55. The proper course, before passing the requisite resolution, is to ascertain from the Registrar that there is no objection to the proposed name.

Resolved—That the name of the Society be changed from (old name) to (new name).

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APPENDIX VIII

THE LITERARY AND SCIENTIFIC INSTITUTIONS ACT, 1854

(17 & 18 Vict. c.112)

Note :—The Societies Registration Act is based on Sections 20 to 33 of the Literary and Scientific Institutions Act, 1854. Sections 1 to 19 of the above English Act, which deal with matters relating to conveyancing, are neither material nor useful for the purpose of making a comparative study of the provisions of the English Act and have therefore been omitted.

An Act to afford greater Facilities for the Establishment of Institutions for the Promotion of Literature and Science and the Fine Arts, and to provide for their better Regulation. [11th August, 1854.]

WHEREAS it is expedient that greater facilities should be afforded for procuring and settling sites and buildings in trust for institutions for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge, and that other provisions should be made for improving the legal condition of such institutions : BE IT THEREFORE ENACTED as follows :—

20. Personal property of institutions, how to be vested. Where any institution shall be incorporated, and have no provision applicable to the personal property of such institution, and in all cases where the institution shall not be incorporated, the money, securities for money, goods, chattels, and personal effects belonging to the said institution, and not vested in trustees, shall be deemed to be vested for the time being in the governing body of such institution, and in all proceedings, civil and criminal, may be described as the monies, securities, goods, chattels, and effects of the governing body of such institution, by their proper title.

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21. Suits by and against institution, how to be brought. Any institution incorporated which shall not be entitled to sue and be sued by any corporate name, and every institution not incorporated, may sue or be sued in the name of the president, chairman, principal secretary, or clerk, as shall be determined by the rules and regulations of the institution, and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion: provided, that it shall be competent for any person having a claim or demand against the institution to sue the president or chairman thereof, if, on application to the governing body, some other officer or person be not nominated to be the defendant.

22. Suits not to abate or discontinue. No suit or proceeding in any civil court, shall abate or discontinue by reason of the person by or against whom such suit or proceedings shall have been brought or continued dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

23. Judgment recovered against person suing or sued on behalf of an institution, how to be enforced. If a judgment shall be recovered against the person or officer named on behalf of the institution, such judgment shall not be put in force against the goods, chattels, or lands, or against the body, of such person or officer, but against the property of the institution; and a writ of revivor shall be issued, setting forth the judgment recovered, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the institution only, and requiring to have the judgment enforced against the property of the institution.

24. Institution may make bye-laws. In any institution the governing body, if not otherwise legally empowered to do so, may, at any meeting specially convened according to its regulations, make any bye-law for the better governance of the institution, its members or officers, and for the furtherance of its purpose and

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object, and may impose a reasonable pecuniary penalty for the breach thereof, which penalty, when accrued, may be recovered in any local court of the district wherein the defendant shall inhabit or the institution shall be situated, as the governing body thereof shall deem expedient: Provided always, that no pecuniary penalty imposed by any bye-law for the breach thereof shall be recoverable unless the bye-law shall have been confirmed by the votes of three-fifths of the members present at a meeting specially convened for the purpose.

25. **Members liable to be sued for subscriptions in arrear or property wrongfully detained.** Any member who may be in arrear of his subscription according to the rules of the institution, or may be or shall possess himself of or detain any property of the institution in a manner or for a time contrary to such rule, or shall injure or destroy the property of the institution, may be sued in the manner hereinbefore provided; but if the defendant shall be successful in any action or other proceeding at the instance of the institution, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought, or from the institution, and in the latter case shall have process against the property of the said institution in the manner above described.

26. **Members guilty of offences may be prosecuted and punished as strangers.** Any member of the institution who shall steal, purloin, or embezzle the money, securities for money, goods, and chattels of the institution, or wilfully and maliciously, or wilfully and unlawfully, destroy or injure the property of such institution, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the institution may be exposed to loss, shall be subject to the same prosecution, and if convicted shall be liable to be punished in like manner, as any person not a member would be subject and liable to in respect of the like offence.

27. **Institutions enabled to alter, extend, or abridge their purposes, or amalgamate with other institutions.**

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Whenever it shall appear to the governing body of any institution (not having a Royal Charter, nor established by nor acting under any Act of Parliament), which has been established for any particular purpose or purposes that it is advisable to alter, extend, or abridge such purpose, or to amalgamate such institution, either wholly or partially, with any other institution or institutions, such governing body may submit the proposition to their members in a written or printed report, and may convene a special meeting for the consideration thereof according to the regulations of the institution ; but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member ten days previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the members present at such meeting, and confirmed by the votes of three-fifths of the members present at a second special meeting convened by the governing body at an interval of one month after the former meeting.

28. Power to Board of Trade to suspend such alteration, etc. If any members of the institution, being not less than two-fifths in number, consider that the proposition so carried is calculated to prove injurious to the institution, they may, within three months after the confirmation thereof, make application in writing to the Lords of the Committee of her Majesty's Privy Council for Trade and Foreign Plantations, who, at their discretion, shall entertain the application, and if, after due inquiry, they shall decide that the proposition is then calculated to prove injurious to the institution, the same shall not be then carried into effect ; but such decision shall not prevent the members of such institution from reconsidering the same proposition on a future occasion.

29. Dissolution of institutions and adjustment of affairs. Any number not less than three-fifths of the members of any institution may determine that it shall be dissolved and thereupon it shall be dissolved forthwith or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the institution, its claims and liabilities, according to the rules of the said institution applicable thereto

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if any, and if not, then as the governing body shall find expedient: Provided, that in the event of any dispute arising among the said governing body, or the members of the institution, the adjustment of its affairs shall be referred to the judge of the county court of the district in which the principal building of the institution shall be situated, and he shall make such order or orders in the matter as he shall deem requisite, or, if he find it necessary, shall direct that proceedings shall be taken in the Court of Chancery for the adjustment of the affairs of the institution.

30. Application of surplus upon a dissolution. If upon the dissolution of any institution there shall remain, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the said institution or any of them, but shall be given to some other institution, to be determined by the members at the time of the dissolution, or in default thereof by the judge of the county court aforesaid: Provided, however, that this clause shall not apply to any institution which shall have been founded or established by the contributions of shareholders in the nature of a joint-stock company.

31. Members defined. For the purposes of this Act, a member of an institution shall be a person who, having been admitted therein according to the rules and regulations thereof, shall have paid a subscription, or shall have signed the roll or list of members thereof; but in all proceedings under this Act no person shall be entitled to vote or be counted as a member whose current subscription shall be in arrear at the time.

32. Governing body defined. The governing body of the institution shall be the council, directors, committee, or other body to whom, by Act of Parliament, charter, or the rules and regulations of the institution, the management of its affairs is entrusted; and if no such body shall have been constituted on the establishment of the institution, it shall be competent for the members thereof, upon due notice, to create for itself a governing body to act for the institution thenceforth.

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33. To what institutions the Act applies. The Act shall apply to every institution for the time being established for the promotion of science, literature, the fine arts, for adult instruction, the diffusion of useful knowledge, the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public, of public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs: Provided, that the Royal Institution, and the London Institution for the Advancement of Literature and the Diffusion of Useful Knowledge, shall be exempt from the operation of this Act.

35. Short title. In all deeds, documents, proceedings, suits, and prosecutions, this Act may be cited and described by the name of the Literary and Scientific Institutions Act, 1854.

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APPENDIX IX

The United State of Gwalior, Indore and Malwa (Madhya Bharat) Societies Registration Act, Samvat 2007 Act No. 53 of 1950 *as amended by The Madhya Bharat Societies Registration (Amednment) Act,* Samvat 2007 Act No. 3 of 1951.

(Received the assent of His Highness the Raj-Pramukh on 25th February, 1950).

An Act to provide for the Registration of Literary, Scientific and Charitable Societies in the United State of Gwalior, Indore and Malwa (Madhya Bharat).

WHEREAS it is expedient to provide for consolidating and amending the law relating to Societies established for the promotion of literature, science, or the fine arts or for the diffusion of useful knowledge, the diffusion of political education or for charitable purposes in the United State of Gwalior, Indore and Malwa (Madhya Bharat), it is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called " The United State of Gwalior, Indore and Malwa (Madhya Bharat) Societies Registration Act, Samvat 2007.

(2) It extends to the whole of the United State of Gwalior, Indore and Malwa (Madhya Bharat) and shall come into force from such date as may be prescribed by the Government in this behalf.

Definitions.

2. In this Act—(*a*) " United State " means the United State of Gwalior, Indore and Malwa (Madhya Bharat) ;

(*b*) " Government " means the Government of the United State ;

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(*c*) " Covenanting State " means a State which has covenanted to form the United State and has subsequently merged into it or a State which may become merged in future in the said State.

Societies formed by memorandum of association and registration.

3. Any seven or more persons associated for any literary, scientific or charitable purpose, or for any such purpose as is described in Section 22 of this Act may by subscribing their names to a memorandum of association and filing the same with the Registrar of Joint-stock Companies form themselves into a society under this Act.

Memorandum of Association.

4. The memorandum of association shall contain the following things (that is to say) :—The name of the society ; the objects of the society, the names, addresses and occupations of the Governors, council, directors, committee, or other governing body to whom by the rules of the society, the management of its affairs is entrusted.

A copy of the rules and regulations of the society, certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the memorandum of association.

Registration.

5. Upon such memorandum and certified copy being filed, the Registrar shall certify under his hand that the society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of fifty rupees or such smaller fee as the Government may from time to time direct, and all fees so paid shall be accounted for to the Government.

Annual list of managing body to be filed.

6. Once in every year, on or before the fourteenth day succeeding the day on which according to the rules of the society the annual general meeting of the society is held, or if the rules do not provide for an annual general meeting, in the month of January, a list shall be filed with the Registrar of Joint-stock Companies, of the names, addresses and occupations of the governors, council, directors, committee, or other governing body then entrusted with the management of the affairs of the society.

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Property of society in whom vested.

7. The property, movable and immovable, belonging to a society registered under this Act, if not vested in trustees, shall be deemed to be vested for the time being in the governing body of such society and in all proceedings, civil and criminal may be described as the property of the governing body of such society by their proper title.

Suits by and against societies.

8. Every society registered under this Act may sue or be sued in the name of the president, chairman or principal secretary or trustees, as shall be determined by the rules and regulations of the society and in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion :

Provided that it shall be competent for any person having a claim or demand against the society to sue the president or chairman or principal secretary, or the trustees thereof, if on application to the governing body some other officer or person be not nominated to be the defendant.

Suits not to abate.

9. No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

Enforcement of Judgment against society.

10. If a judgment shall be recovered against the person or officer named on behalf of the society, such judgment shall not be put in force against the property, movable or immovable, or against the body of such person or officer, but against the property of the society.

The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued as the case may be, on behalf of the society only, and shall require to have the judgment enforced against the property of the society.

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Recovery of penalty accruing under bye-law.

11. Whenever by any bye-law duly made with the rules and regulations of the society, or if the rules do not provide for the making of bye-law, by any bye-law made at a general meeting of the members of the society convened for the purpose (for the making of which the concurrent votes of three-fifths of the members present at such meeting shall be necessary) any pecuniary penalty is imposed for the breach of any rule or bye-law of the society, such penalty, when accrued, may be recovered in any Court having jurisdiction, where the defendant shall reside, or the society shall be situated as the governing body thereof shall deem expedient.

Members liable to be sued for arrears.

12. Any member who may be in arrear of a subscription which according to the rules of the society, he is bound to pay, or who shall posesss himself of or detain any property of the society in a manner or for a time contrary to such rules or shall injure or destroy any property of the society, may be sued for such arrear or for the damage accruing from such detention, injury or destruction of property in the manner hereinbefore provided.

Recovery by successful defendant of costs adjudged.

But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought or from the society, and in the latter case shall have process against the property of the said society in the manner above described.

Members guilty of offences punishable as strangers.

13. Any member of the society who shall steal, purloin, or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such society, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the society may be exposed to loss shall be subject to the same prosecution, and, if convicted, shall be liable

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to be punished in like manner as any person not a member would be subject and liable to in respect of the like offence.

Societies enabled to alter, extend, or abridge their purposes.

14. Whenever it shall appear to the governing body of any society registered under this Act, which has been established for any particular purpose or purposes that it is advisable to alter, extend or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such society either wholly or partially with any other society, such governing body may submit the proposition to the members of the society in a written or printed report, and may convene a special meeting for the consideration thereof according to the regulations of the society ;

But no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member of the society ten days previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the members delivered in person or by proxy, and confirmed by the votes of three-fifths of the members present at a second special meeting convened by the governing body at an interval of one month after the former meeting.

Provision for dissolution of societies and adjustment of their affairs.

15. Any number not less than three-fifths of the members of any society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of society, its claims and liabilities according to the rules of the said society applicable thereto, if any, and, if not, then as the governing body shall find expedient :

Provided that, in the event of any dispute arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of the

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society is situate, and the Court shall make such order in the matter as it shall deem requisite :

Assent required.

Provided that no society shall be dissolved unless three-fifths of the members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general meeting convened for the purpose.

Government consent.

Provided that whenever the Government is a member of, or a contributor to, or otherwise interested in any society registered under this Act, such society shall not be dissolved without the consent of the Government.

Upon a dissolution no member to receive profit.

16. If, upon the dissolution of any society registered under this Act, there shall remain after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the said society or any of them but shall be given to some other society, to be determined by the votes of not less than three-fifths of the members present personally or by proxy at the time of the dissolution or in default thereof, by such Court as aforesaid :

Clause not to apply to Joint-stock Companies.

Provided, however, that this clause shall not apply to any society which shall have been founded or established by the contributions of shareholders in the nature of a Joint-stock Company.

Determination after dissolution that property be utilised by Government.

16-A. Notwithstanding anything contained in Section 16, it shall be lawful for the members of any society dissolved under section 15 to determine by majority of votes of the members present personally or by proxy at the time of dissolution of such society that any property whatsoever remaining after satisfaction of all its debts and liabilities shall be given to Government to be utilised for any of the purposes referred to in section 3 of the Act.

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17. For the purposes of this Act a member of a society shall be a person who having been admitted therein according to the rules and regulations thereof, shall have paid a subscription, or shall have signed the roll or list of members thereof and shall not have resigned in accordance with such rules and regulations; but in all proceedings under this Act no person shall be entitled to vote or be counted as a member whose subscription at the time shall have been in arrear for a period exceeding three months.

Member defined.

Disqualified members.

18. The governing body of the society shall be the governors, council, directors, committee, trustees, or other body to whom by the rules and regulations of the society the management of its affairs is entrusted.

Governing body defined.

19. Any company or society established for a literary, scientific or charitable purpose and registered under any Act for the time being in force in any of the Covenanting States or any such society established and constituted previously to the passing of this Act, but not registered under any such Act may at any time hereafter be registered as a society under this Act;

Registration of societies formed before Act.

subject to the proviso that no such company or a society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the members present personally, or by proxy at some general meeting convened for that purpose by the governing body.

Assent required.

In the case of a company or society registered under the Act aforesaid the directors shall be deemed to be such governing body.

In the case of a society not so registered if no such body shall have been constituted on the establishment of the society, it shall be competent for the members thereof, upon due notice to create for itself a governing body to act for the society thenceforth.

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Such societies to file memorandum etc. with Registrar of Joint-stock Companies.

20. In order to any such society as is mentioned in the last preceding section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint-stock Companies a memorandum showing the name of the society, the objects of the society and the names, addresses and occupations of the governing body, together with a copy of the rules and regulations of the society certified as provided in section 4 and a copy of the report of the proceedings of the general meeting at which the registration was resolved on.

Inspection of documents.

Certified copies.

21. Any person may inspect all documents filed with the Registrar under this Act on payment of a fee of one rupee for each inspection; and any person may require a copy or extract of any document or any part of any document, to be certified by the Registrar on payment of two annas for every hundred words of such copy or extract; and such certified copy shall be *prima facie* evidence of the matters therein contained in all legal proceedings whatever.

To what societies Act applies.

22. The following societies may be registered under this Act :—

charitable societies, the military orphan funds or societies established for the promotion of science, literature or the fine arts, for instruction, the diffusion of useful knowledge, (the diffusion of political education), the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public, or public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.

Repeal.

23. On the commencement of this Act, all laws relating to the Registration of societies for the time being in force in any of the Covenanting States shall stand repealed :

Provided that subject to section 19 of this Act all societies registered, actions taken or orders given under the laws hereby repealed shall be deemed to have been registered, taken or given, as the case may be, under this Act.

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APPENDIX X

Text of the Bill to amend the Societies Registration Act, 1860 in its application to the State of Delhi.

Note :—The following Bill which is proposed to be introduced shortly in the Delhi Legislative Assembly has been published in the *Government Gazette*, Delhi State, dated June 17, 1954. (See Part IV–Section 2, Bills and Reports of Select Committees on Bills).

BILL No. IX OF 1954

A Bill to amend the Societies Registration Act, 1860, *in its application to the State of Delhi.*

BE it enacted by the Delhi State Legislative Assembly in the Fifth Year of our Republic as follows :—

1. Short title and commencement.—(1) This Act may be called the Societies Registration (Delhi Amendment) Act, 1954.

(2) It shall come into force on the date on which it receives the assent of the President.

2. Amendment of section 12 of Act XXI of 1860.—In section 12 of the Societies Registration Act, 1860, hereinafter called the said Act, after the words "other society" the words "or whenever the governing body of any society registered under this Act decides to change the name of the society" shall be inserted.

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3. Insertion of new sections 12A, 12B and 12C in Act XXI of 1860.—After section 12 of the said Act, the following new sections shall be inserted namely :—

"**12-A. Registration of change of name.**—(1) Where a proposition for change of name has been agreed to and confirmed in the manner prescribed by section 12 a copy of the proposition so agreed to be confirmed shall be forwarded to the Registrar of Joint-stock Companies for registering the change of name. If the proposed name is identical with that by which any other existing society has been registered, or in the opinion of the Registrar so nearly resembles such name as to be likely to deceive the public or the members of either society, the Registrar shall refuse to register the change of name.

(2) Save as provided in sub-section (1), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and issue a certificate of registration altered to meet the circumstances of the case. On the issue of such a certificate the change of name shall be complete.

(3) The Registrar shall charge for any copy of a certificate issued under sub-section (2) a fee of rupee one, or such larger fee as the State Government may from time to time, direct ; and all fees so paid shall be accounted for to the State Government.

12-B. Effect of change of name.—The change in the name of a society shall not affect any rights or obligations of the society or render defective any legal proceeding by or against the society ; and any legal proceeding which might have been continued or commenced by or against it by the former name may be continued or commenced by or against it by the new name.

12-C. Registration of change of names effected before coming into force of Delhi Act..... of 1954.—If any society registered under this Act has, before the date of the coming into force of the Societies Registration (Delhi Amendment) Act, 1954, intimated to the Registrar of Joint-stock Companies the change

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of its name and if the Registrar has recorded such change, the Registrar may, notwithstanding anything contained in this Act, on an application made by the Society in this behalf and on payment of a fee as provided for in sub-section (3) of section 12-A, register the change of such name and issue a certificate to the society under sub-section (2) of the said section 12-A. On the issue of such certificate the change shall be deemed to be complete from the date on which such change was recorded by the Registrar, notwithstanding the fact that the society had not followed the procedure prescribed in sections 12 and 12-A."

Statement of Objects and Reasons.—A society registered under the Societies Registration Act, 1860, can alter its purposes but it cannot change its name. Such a change is permitted in the case of incorporated companies. It is necessary to make provision for a change of name in the case of societies registered under the said Act.

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